



MAKE THE FOLLOWING EDITORIAL CORRECTIONS TO CHAPTER 10-000:

AMEND SECTION 10-010(e) TO READ:

- (e) "Mandated service program" means a service program which is provided in all geographical areas, in accordance with the provisions of the various chapters of Division 30.

AMEND SECTION 10-010(h) TO READ:

- (h) "Service program" means a set of social service functions organized around a unifying theme, with services directed at meeting specific needs within the eligible population. Service programs are directed at the goals set forth in Section 30-001.1. Specific service programs are identified in Division 30.

MAKE THE FOLLOWING EDITORIAL CORRECTIONS TO CHAPTER 30-000:

AMEND SECTION 30-002(a) TO READ:

- (a) "Abuse" means the nonaccidental commission of injuries against a person. In the case of a child, the term refers specifically to the nonaccidental commission of injuries against the child by or allowed by a parent(s)/guardian(s)/ or other person(s) in whom the court has vested care, custody, and control of the child. The term also includes emotional, physical, and sexual abuse as defined in (1) through (3) below.

AMEND SECTION 30-002(k)(5) TO READ:

- (5) A relative other than the child's parent ~~or~~ /guardian, pursuant to a court order or voluntary placement agreement.

AMEND SECTION 30-002(s) TO READ:

- (s) "Neglect" means the failure to provide a person with necessary care and protection. In the case of a child, the term refers to the failure of a parent(s)/guardian(s) or caretaker(s) to provide the care and protection necessary for the child's healthy growth and development. Neglect occurs when children are physically or psychologically endangered. The term includes both severe and general neglect as defined by Penal Code Section 11165(c).

AMEND SECTION 30-002(z)(9) TO READ:

(9) "Teaching and demonstrating homemaker" means a person who provides homemaking instruction, through discussion and example, to parent(s)/guardians, caretaker(s), and/or families when ~~parental~~ parent/guardian functioning can be improved by teaching more effective child care skills and home maintenance. Although this does not include the routine provision of regular homemaker services, teaching and demonstrating homemakers may provide direct child care and home maintenance services incidental to the primary goal of improving parent/guardian functioning through demonstrating and teaching skills required to successfully manage and maintain the home and meet the needs of children in that setting. This instruction is available on a 24-hour basis as resources permit. It does not necessarily have to be provided during the parent'(s)/guardian'(s) or caretaker'(s) presence in the home.

AMEND SECTION 30-002(gg) TO READ:

(gg) "Support activities" means broadly based activities related to overall services operations. Such activities benefit the recipient population in whole or in part, and are federally funded through Titles IV-B, IV-E, or XX. Support activities include the activities defined in (1) through (3) below.

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MAKE THE FOLLOWING EDITORIAL CORRECTIONS TO CHAPTER 30-300:

AMEND SECTION 30-302(b) TO READ:

(b) "Allowable monthly expenses" means only the following: court-ordered payments; voluntary payments made for foster care; child care expenses necessary for a parent'(s)/guardian'(s) employment; State Department of Mental Health charges for mental health services; charges for other mental health services initiated for the purpose of family reunification; dependent support payments; medical expenses in excess of three percent of gross monthly income; and mandated payroll deductions for retirement plans, exclusive of Social Security.

AMEND SECTION 30-302(g) TO READ:

(g) "Family", for purposes of seeking reimbursement for voluntary family reunification services as specified in Section 30-364.7, means ~~father and/or mother~~ a parent(s)/guardian(s), and ~~the~~ his/her dependent minor children.

AMEND SECTION 30-302(j) TO READ:

(j) "Gross family annual income" means the annual income for all family members before deduction of taxes;~~i~~ or, for self-employed persons, the annual income for all family members after deducting the costs of doing business, based on the last taxable year's income or income received during the 12 months immediately preceding application for family reunification services.

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AMEND SECTION 30-302(k) TO READ:

(k) "Gross family monthly income" means the monthly income for all family members before deduction of taxes;i or, for self-employed persons, the monthly income for all family members after deducting the costs of doing business, based on the calendar month immediately preceding application for family reunification services.

AMEND SECTIONS 30-310.2 THROUGH .22 TO READ:

.2 When such services are to be funded through the Emergency Assistance-Abused, Neglected,1 or Exploited Children (EA-ANEC) ~~Program~~, the following eligibility criteria shall be met as specified in Eligibility and Assistance Standards Manual Chapter 45-400/:

.21 The child is being, or is in immediate danger of being, abused, neglected,1 or exploited.

.22 The child is living with a relative as defined in Eligibility and Assistance Standards Manual Section ~~45-101.1(h)~~ 45-101.1(hh), or lived with such relative within six months of application for EA-ANEC.

AMEND SECTION 30-330.2 TO READ:

- .2 At the time of initial placement in foster care, the agency responsible for placement and care shall provide information describing the review process, including the permanency planning hearing, and subsequent court and administrative reviews, to the parent(s) or /guardian(s), and to the child, if 12 years of age or older.

AMEND SECTIONS 30-336.13 AND .14 TO READ:

- .13 Planned parent/guardian-child contacts during the separation, and the specific actions to be taken by the parent(s)/guardian(s) which will facilitate reunification.
- .14 Capability of the foster parent(s) to meet specific needs of the child.

AMEND SECTION 30-336.622 TO READ:

- .622 The sending county shall be responsible for services to the child's parent(s)/guardian(s) and continued assessments.

AMEND SECTIONS 30-338.1 THROUGH .211 TO READ:

.1 Prior to any placement, the social worker shall complete the following requirements:

.11 The child shall be assisted in understanding the reason(s) for placement.

.12 Arrangements for preplacement visitation between the child and the foster parent(s) shall be made if possible.

.13 The ~~F~~foster parent(s) ~~and~~ or group home operator(s) shall be informed of the child's background, if such information is available, including but not limited to the following histories:

.131 Medical.

.132 Placement.

.133 Family.

.134 Behavioral.

- .14 The foster parent(s) shall be informed of the accessibility of a social worker.
- .15 The foster parent(s) and or group home operator(s) shall be informed of any known or suspected dangerous behavior of the child being placed.
- .151 The case record shall include the information specified in Sections 30-198.119 30-198.181 through .184.
- .16 The county shall ensure completion of the documentation necessary to initiate AFDC-FC and/or EA-FC payments, as appropriate.
- .2 Prior to placement of a child in a family home which is pending licensure, the social worker shall certify that the home meets licensing standards, and shall complete the following additional requirements:
- .21 An on-site evaluation of the home shall be conducted. Such evaluation shall include the following:
- .211 An assessment of the prospective foster parent'(s)' ability and desire to meet the child's specific needs, and to participate in planning for the child.

AMEND SECTION 30-338.224 TO READ:

.224 The foster parent(s) has signed a statement indicating that he/she has never been convicted of a felony, or of a misdemeanor with a fine in excess of \$50.

AMEND SECTION 30-342.311(c)(3) TO READ:

(3) The child is under two years of age, and less frequent social worker/child contact would facilitate reunification by permitting more frequent social worker/parent/guardian contact.

AMEND SECTIONS 30-342.5 THROUGH .511 TO READ:

.5 For the parent(s) or guardian(s) from whom the child has been removed, the social worker shall:

.51 Have face-to-face contact at least monthly, unless the case record contains documentation justifying less frequent contacts.

.511 If the parent(s) or guardian(s) are is not available for face-to-face contact, the social worker shall maintain written or telephone contact with ~~them~~ him/her regarding the child's status, and the ~~parental~~ parent/guardian actions that should be occurring in order to facilitate reunification.

AMEND SECTIONS 30-342.62 AND .63 TO READ:

- .62 Arrange for telephone access to a social worker 24 hours a day, seven days a week, in case of emergencies involving ~~the~~ his/her foster child(ren).
- .63 Ensure that ~~they~~ he/she understands and supports the service plan, and ~~it~~ is aware of any change(s) thereto.

AMEND SECTION 30-344.3 TO READ:

- .3 A verbal and written reassessment summary which includes the following information shall be given to the parent(s)/guardian(s) whenever a reassessment is completed:

AMEND SECTION 30-348.11 TO READ:

- .11 The agency shall have the authority to include a waiver of the notice requirement specified in .1 above in the written agreement with the foster parent(s).

AMEND SECTIONS 30-348.22 THROUGH .25 TO READ:

- .22 A signed waiver of notice has been obtained from the foster parent(s), as specified in .11 above.
- .23 A court has ordered the child's removal.

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- .24 Adverse licensing or certification actions have occurred which prohibit the foster parent(s) from continuing to provide services.
- .25 Removal of a voluntarily placed child is made or requested by the child's parent(s) ~~or~~ /guardian(s).

AMEND SECTION 30-354.4 TO READ:

- .4 The reason(s) for the recommendation to transfer the case shall be documented in the case record.

AMEND SECTIONS 30-358.2 AND .21 TO READ:

- .2 When a recommendation is made that a case be transferred to the permanent placement program, the social worker shall give the parent(s)/guardian(s) written notice explaining the reason(s) for the recommendation that family reunification services be terminated, and that the case is being transferred.
- .21 The county shall be permitted to use a copy of the court report for purposes of notifying the parent(s)/guardian(s), if appropriate.

AMEND SECTIONS 30-364.42 AND .43 TO READ:

- .42 Assisting the parent(s)/guardian(s) to understand that ~~they~~ he/she still retains legal custody of the child even though ~~they~~ he/she voluntarily places the child with the agency; and that ~~they~~ he/she may limit by written agreement the scope of the foster parent'(s) authority to give parental consent.
- .43 Providing a written statement informing the parent(s)/guardian(s) of the possibility that a petition may be filed pursuant to Welfare and Institutions Code Section 300.

AMEND SECTION 30-364.52 TO READ:

- .52 Parental Parent'(s)/guardian'(s) withdrawal from the program.

AMEND SECTION 30-374.131 TO READ:

- .131 Maintenance of the confidentiality of individual parents'/guardians' and children's public assistance and social service records during the necessary provision of information, evaluations, and recommendations for the court's use in determining its actions.

AMEND SECTION 30-376.131(a)(2) TO READ:

- (2) The child's parent(s)/guardian(s), or person(s) serving in that role.

AMEND SECTIONS 30-376.151(a) THROUGH (d) TO READ:

- (a) A description of the degree of parental parent/guardian compliance with the written services agreement, including the following:

(1) Parental Parent/guardian cooperation in working toward achievement of each reunification plan goal.

(2) Visiting patterns of the parent(s)/guardian(s) with the child, including but not limited to the following:

(A) Visit frequency.

(B) Visit initiation by parent(s)/guardian(s).

(C) Parental Parent/guardian cooperation in keeping appointments.

(D) Parental Parent/guardian interaction with child and/or foster parent(s).

- (b) An evaluation of service plan adequacy and continued appropriateness.

- (c) An evaluation of the need for an alternative plan to reunification, including documentation of joint assessment with adoption~~s~~ staff, if applicable.
- (d) Documentation that the social worker has provided the parent(s)/guardian(s) with the summary specified in Sections 30-344.3 through .33.

AMEND SECTION 30-376.16(c) TO READ:

- (c) Any information release(s) signed by the parent(s)/guardian(s) and/or child.

AMEND SECTIONS 30-376.16(f) AND (g) TO READ:

- (f) Any written modifications or prohibitions to the foster parent~~'~~(s)/ privilege to give legal consent for the child, if applicable.
- (g) Any written ~~parent/guardian~~ parent/guardian consents required by the regulations in this chapter.

AMEND SECTION 30-378.311 TO READ:

- .311 A legal parent ~~or~~/guardian at the time the child is placed.

AMEND SECTION 30-378.7 TO READ:

.7 Unless the child is in imminent danger, he/she shall remain with the foster parent(s), pending decision of the agency director, when removal is the basis for a complaint.

MAKE THE FOLLOWING EDITORIAL CORRECTIONS TO CHAPTER 30-400:

AMEND SECTION 30-400.1 TO READ:

- .1 The provisions of this chapter shall apply whenever permanent placement program services are provided to ~~fix~~~~fix~~ a child who cannot safely live with ~~their~~  
his/her parent(s)/guardian(s), and who ~~are~~ is not likely to return to ~~their~~  
his/her home.

AMEND SECTION 30-438.12 TO READ:

- .12 Notify the foster parent(s) of the consent provisions specified in Section 30-362.

AMEND SECTION 30-438.2 TO READ:

- .2 Prior to permanent placement of a child in a family home which has been certified pending licensure, the social worker shall complete the requirements specified in Sections 30-338.21 through .25.

AMEND SECTIONS 30-442.311 AND .312 TO READ:

- .311 If the child has been placed with a legal guardian and such services are unnecessary, the social worker shall have face-to-face contact with the child no less frequently than once every six months.
- .312 If the child has been placed in a group home, and the criteria specified in .313(a) through (e) below have been met, the social worker shall have face-to-face contact with the child in the home no less frequently than once every three months.

AMEND SECTIONS 30-442.313(b) AND (c) TO READ:

- (b) The child has no serious emotional problems caused or aggravated by the placement situation, and the social worker has determined that the placement has stabilized.
- (c) The foster parent(s) ~~not~~ is cooperative in carrying out the service plan.

AMEND SECTION 30-442.6 TO READ:

- .6 ~~For the child's foster care provider(s) or guardian(s),~~ The social worker shall provide the services specified in Sections 30-342.61 through .63 to any foster parent(s) or guardian(s) with whom a child has been permanently placed.

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AMEND SECTION 30-454.3 TO READ:

- .3 The reason(s) for the recommendation to transfer the case shall be documented in the case record.

AMEND SECTION 30-464.1 TO READ:

- .1 In addition to the general requirements specified in this chapter, applicable provisions of Section 30-364 shall govern the permanent placement of ~~children~~  
a child whose parent(s)/guardian(s) ~~may~~ has voluntarily consented to such placement.

AMEND SECTION 30-476.141(a) TO READ:

- (a) A description of the degree of ~~parental~~ parent/guardian compliance with the written services agreement, including progress in working toward achievement of each plan goal.

AMEND SECTION 30-494.11 TO READ:

- .11 The parent(s) ~~or~~/guardian(s) from whom the child has been removed, provided that such person's~~'~~s parental rights have not been voluntarily relinquished, or terminated by court action.

AMEND SECTION 30-494.15 TO READ:

.15 The social worker(s) responsible for the child's or parent's/s/guardian(s) case management or service delivery.

AMEND SECTION 30-496.112 TO READ:

.112 A description of the current situation of the child's parent(s) or/guardian(s).

AMEND SECTION 30-496.3 TO READ:

.3 Hearings shall be postponed or continued only at the request of the child, or of the parent(s) or/guardian(s); or if the review panel determines that additional time is necessary to obtain or evaluate information necessary to make an appropriate case-related decision.

AMEND SECTION 30-497.11 TO READ:

.11 If the panel determines that a necessary change in the permanent placement plan, or in individual case plan goals and services, requires modification or termination of an existing court order, the panel shall direct the agency responsible for

delivery of services to the parent(s)/guardian(s) and child to petition the court for the recommended change.

AMEND SECTION 30-498.11 TO READ:

.11 The panel shall be permitted to use a copy of the service plan ~~for this purpose~~  
to fully or partially comply with the requirement specified in .1 above, provided  
that the requirements specified in .2 through .3 below are met.

AMEND SECTION 30-498.42 TO READ:

.42 The parent(s) ~~or~~/guardian(s) of the child; and ~~or~~ his/her representative(s),  
as defined in Section ~~30-302(6)~~ 30-002(y).

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ATTACHMENT I

## Attachment 1

## PURPOSE OF REVISION

REVISED SECTION(S)	CORRECTION OF TYPO'S AND OMISSIONS	CLARIFICATION OF LANGUAGE	STANDARDIZATION OF "PARENT(S)/ GUARDIAN(S)"	STANDARDIZATION OF "FOSTER PARENT(S)"	CORRECTION OF CROSS- REFERENCE	MAINTENANCE OF INTERNAL CONSISTENCY
10-010(e) 10-010(h) 30-002(a) 30-002(k)(5) 30-002(s)	X X	X	X X X*			
30-002(z)(9) 30-002(gg) 30-302(b) 30-302(g) 30-302(j)	X	X	X*			
30-302(k) 30-310.2-.22 30-330.2 30-336.13 & .14 30-336.622	X	X X X	X X* X*	X	X	
30-338.1-.211 30-338.224 30-342.311(c)(3) 30-342.5-.511 30-342.62 & .63	X	X X	X* X	X X	X	X
30-344.3 30-348.11 30-348.22-.25 30-354.4 30-358.2 & .21	X X		X* X X*	X X		
30-364.42 & .43 30-364.52 30-374.131 30-376.131(a)(2) 30-376.151(a)-(d)		X X	X* X* X* X* X*	X		X
30-376.16(c) 30-376.16(f) & (g) 30-378.311 30-378.7 30-400.1	X		X* X* X X*	X X		
30-438.12 30-438.2 30-442.311 & .312 30-442.313(b) & (c) 30-442.6		X X X		X X		
30-454.3 30-464.1 30-476.141(a)	X		X* X*			

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## Attachment 1 (Contd)

REVISED SECTION(S)	PURPOSE OF REVISION					
	CORRECTION OF TYPO'S AND OMISSIONS	CLARIFICATION OF LANGUAGE	STANDARDIZATION OF "PARENT(S)/ GUARDIAN(S)"	STANDARDIZATION OF "FOSTER PARENT(S)"	CORRECTION OF CROSS- REFERENCE	MAINTENANCE OF INTERNAL CONSISTENCY
30-494.11			X			
30-494.15			X*			
30-496.112			X			
30-496.3			X			
30-497.11			X*			
30-498.11		X				
30-498.42	X	X	X		X	X

\*Also refer to Attachment 2

ATTACHMENT 2

Section 30-002(s):

This section currently defines "neglect" as failure of parent(s) or caretaker(s) to provide "care and protection" to a child. The term is also defined as including both severe and general neglect, as defined by Penal Code Section 11165(c).

Amendment of the section to define "neglect" as failure of parent(s)/guardian(s) or caretaker(s) to provide care and protection will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Penal Code Sections 11165(c)(1) and (2) define "neglect" as the failure of a person having the "care or custody" of a child to perform certain functions with regard to that child.
- (2) Probate Code Section 2351 (within Chapter 5, Powers and Duties of Guardian or Conservator of the Person) states that the guardian has the "care, custody, and control" of the child.
- (3) 42 USC 675(2) defines "parents" to include "legal guardians, as determined by applicable State law."
- (4) MPP Section 30-002(n) defines "guardian," in the case of a juvenile, as a person appointed pursuant to Welfare and Institutions Code Section 366.25(e).

Section 30-002(z)(9):

This section currently defines a "teaching and demonstrating homemaker" as a person who provides services to parent(s)/caretaker(s) and/or families. Amendment of the section to specify that such services are provided to parent(s)/guardian(s), caretaker(s), and/or families will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Welfare and Institutions Code Sections 16506, 16506.1, 16507, and 16507.1 provide that family maintenance and family reunification services shall include teaching and demonstrating homemaker services; and that such services shall be available to families whose child has been adjudicated a dependent under Welfare and Institutions Code Section 300.
- (2) Welfare and Institutions Code Sections 300(a) and (d) provide that a minor may be adjudicated a dependent when there is no parent or guardian willing to or capable of exercising care or control; or when the child's home is unfit due to neglect, etc., by the parent or guardian.
- (3) [ ] Refer to Section 30-002(s), Items (3) and (4), above.
- (4) [ ]

Section 30-302(b):

This section currently defines "allowable monthly expenses" as including child care expenses necessary for a parent's employment. Amendment of the section to specify that such expenses are allowable as a deduction when necessary for a parent(s)/guardian(s) employment will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) The term "allowable monthly expenses" is used in the regulations only in reference to seeking reimbursement for voluntary family reunification services.
- (2) Welfare and Institutions Code Section 16507.4 requires that the county seek such reimbursement from the parent or guardian on a sliding scale according to income.
- (3) MPP Sections 30-364.7 through .734 specify the formula for computing the family's adjusted gross monthly family income; this formula includes a deduction for "allowable monthly expenses;" and the form provided to the counties for use in making the required computation refers uniformly to "parent(s)/guardian(s)" (see Attachment 5).

Section 30-302(g):

This section currently defines "family," for purposes of seeking reimbursement for voluntary family reunification services, as including father and/or mother, and their dependent minor children. Amendment of the section to specify that "family" means a parent(s)/guardian(s) and his/her dependent minor children will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) The section specifies that the definition applies solely to the seeking of reimbursement for voluntary family reunification services.
- (2) Welfare and Institutions Code Section 16507.4 requires that the county seek such reimbursement from the parent or guardian.
- (3) 42 USC 675(2) defines "parents" to include biological or adoptive parents.
- (4) Accepted legal usage and case law define "father" and "mother" in terms of parentage:
  - (a) "Father. A male parent."  
"Mother...A female parent."  
(Black's Law Dictionary. Revised Fourth Edition. West Publishing Co. 1968)
  - (b) "A 'mother' is a female parent. A 'father' is a male parent."  
(Boroughs v. Oliver, 64 So. 2nd 338, 341, 217 Miss. 280)

In addition, there is a close interrelationship between the Division 30 regulations governing the provision of services to children in foster care, and the Division 41 and 45 regulations governing the Aid to Families with Dependent Children- Foster Care (AFDC-FC) program, which provides funding for such children while in foster care placement.

As a result, the following AFDC-FC provisions are currently of relevance to the department when applying the Division 30 regulations:

- (1) Chapter 45-200 regulations clarify that voluntarily placed children are eligible for AFDC-FC:
  - (a) Sections 45-203.3, .31, and .314 specify that an authority-for-placement criterion has been met if the child has been "placed by a parent or guardian under a voluntary placement agreement."
  - (b) Section 45-203.11 specifies that a child "shall be considered deprived of parental support or care when placed in foster care in accordance with...a services determination of the need for foster care."
  - (c) Section 45-213.631 specifies the parties with authority to make such a services determination regarding "the need for a child's voluntary placement."
- (2) Chapter 41-400 regulations clarify the meaning of the term "deprived of parental support or care" as used in Section 45-203.11:
  - (a) Section 41-400 specifies that "deprivation of parental support or care is a separate and specific eligibility factor for AFDC." Accordingly, definitions relating to the Chapter 41-400 regulations are relevant to children receiving AFDC-FC funding after they have voluntarily been placed in foster care and are receiving voluntary family reunification services.
  - (b) Section 41-403.1 defines "parent" as "either the father or the mother..."

Section 30-336.13:

This section currently specifies that selection of a facility location is to be based in part on planned parent contacts and actions. Amendment of the section to require that planned parent/guardian contacts and actions be taken into consideration under such circumstances will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) 42 USC 675(1) requires "a plan for assuring...that services are provided to the parents...in order to...facilitate return of the child to his own home..."
- (2) 42 USC 675(5)(A) requires a case plan "designed to achieve placement...in close proximity to the parents' home..."
- (3) — Refer to Section 30-002(s), Items (3) and (4), above.
- (4) —

Section 30-336.622:

This section currently specifies, with regard to an out-of-county placement, that the sending county is responsible for services to the child's parent(s). Amendment of the section to require that such services be provided to the child's parent(s)/guardian(s) will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Welfare and Institutions Code Section 361(c) requires that "the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification...", but that, if "there are no appropriate placements available in the parents' or guardians' county, a placement may be made...in another county..."
- (2) 42 USC 675(1) requires a "plan for assuring...that services are provided to the parents."
- (3) — Refer to Section 30-002(s), Items (3) and (4), above.
- (4) —

Section 30-342.311(c)(3):

This section currently refers to the social worker/parent contact which would facilitate reunification. Amendment of the section to refer to social worker-parent/guardian contact will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) MPP Sections 30-342.5 and .51 require monthly face-to-face contacts with parent(s) or guardian(s).
- (2) Welfare and Institutions Code Section 16507.1 requires that family reunification services shall include counseling, a service often provided by social workers during such face-to-face contacts.
- (3) Welfare and Institutions Code Section 16507 requires that family reunification services be available to families whose child has been adjudicated under Welfare and Institutions Code Section 300.
- (4) Refer to Section 30-002(z)(9), Item (2), above.
- (5) — Refer to Section 30-002(s), Items (3) and (4), above.
- (6) —

Section 30-344.3:

This section currently specifies that a reassessment summary must be given to the parent(s). Amendment of the section to require that such a summary be given to the parent(s)/guardian(s) will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) MPP Sections 30-376.151(a)(1) and (2) require that the reassessment include a description of the degree of parental compliance with the services agreement, including parental cooperation in working to achieve reunification plan goals, and parental visiting patterns.
- (2) 42 USC 675(1) requires a "plan for assuring...that services are provided to parents to improve home conditions and facilitate reunification."
- (3) 42 USC 675(5)(C) requires the application of "procedural safeguards...with respect to parental rights pertaining to the removal of the child from the home of his parents...and to any determination affecting visitation privileges of parents."
- (4) \_\_\_\_\_ Refer to Section 30-002(s), Items (3) and (4), above.
- (5) \_\_\_\_\_

Sections 30-358.2 and .21:

These sections currently specify that written notice must be given to parent(s) regarding termination of family reunification services and case transfer to the permanent placement program. Amendment of the sections to require notice to parent(s)/guardian(s) will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Refer to Section 30-342.311(c)(3), Item (3), above.
- (2) Welfare and Institutions Code Section 16508 requires that permanent placement services be available to children judged dependent under Welfare and Institutions Code Section 300 where a review has determined that reunification, adoption, or guardianship is inappropriate.
- (3) Refer to Section 30-002(z)(9), Item (2), above.
- (4) Refer to Section 30-344.3, Item (3), above.
- (5) \_\_\_\_\_ Refer to Section 30-002(s), Items (3) and (4), above.
- (6) \_\_\_\_\_

Sections 30-364.42 and .43:

These sections currently specify that the social worker must assist the parent(s) to understand retention-of-custody and consent-authority issues during voluntary placement of their child; and that the social worker must provide the parent(s) with a written statement regarding possible filing of a petition pursuant to Welfare and Institutions Code Section 300.

Amendment of the sections to require that the social worker provide such services to the parent(s)/guardian(s) will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Welfare and Institutions Code Section 16507.4 states that voluntary family reunification services may be provided to a family only if the county seeks reimbursement from the parent or guardian.
- (2) Welfare and Institutions Code Section 16507.6 provides that, if a voluntarily placed minor has been out of the parents' or guardians' physical custody for six consecutive months, the minor may be referred to a licensed adoption agency for receipt of permanent relinquishment of care and custody rights from the parents.
- (3) [redacted]
- (4) [redacted] Refer to Section 30-002(s), Items (2) through (4), above.
- (5) [redacted]
- (6) Health and Safety Code Section 1530.6 specifies that, if a child has been voluntarily placed by the parent(s), a foster parent's legal consent authority includes only those items to which the parties to the placement have agreed in writing.
- (7) Welfare and Institutions Code Section 16507.6 specifies that, if a voluntarily placed minor is out of the parent's or guardian's custody for six consecutive months, the department may apply for a petition pursuant to Welfare and Institutions Code Section 332, and file a petition pursuant to Welfare and Institutions Code Section 300.
- (8) Refer to Section 30-002(z)(9), Item (2), above.
- (9) Refer to Section 30-344.3, Item (3), above.

Section 30-364.52:

This section currently specifies that voluntary placement services must be terminated upon parental withdrawal from the program. Amendment of the section to require termination upon the parent'(s)/guardian'(s) withdrawal will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) 42 USC 672(f)(1) defines "voluntary placement" as "an out-of-home placement of a minor, by or with the participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement."
- (2) 42 USC 672(f)(2) defines "voluntary placement agreement" as "a written agreement... between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies...the legal status of the child and the rights and obligations of the parents or guardians..."
- (3) 42 USC 672(g) requires revocation of the voluntary placement agreement if the parents or guardians request return of the child.
- (4) Refer to Section 30-002(s), Items (3) and (4), above.
- (5)

Section 30-374.131:

This section currently specifies that the county welfare department must maintain the confidentiality of individual parents' service records. Amendment of the section to require maintenance of the confidentiality of parents'/guardians' service records will have no substantive effect on regulatory implementation due to the combined effect of the following factors:

- (1) Refer to Section 30-342.311(c)(3), Item (3), above.
- (2) Refer to Section 30-002(z)(9), Item (2), above.
- (3) Welfare and Institutions Code Section 10850(a) specifies that "all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program..."
- (4) 42 USC 625(a)(1) and Welfare and Institutions Code Section 16501(d) define "child welfare services" as "public social services...directed toward...restoring to their families children who have been removed, by the provision of services to the child and the families."

Sections 30-376.131(a) and (a)(2):

These sections currently specify that the assessment must include a description of various factors relating to the parent(s). Amendment of Section 30-376.131(a)(2) to require a description of such factors with regard to the parent(s)/guardian(s) will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) MPP Section 30-334.1 requires that the service plan be based upon the assessment.
- (2) 42 USC 675(l) requires a "plan for assuring...that services are provided to parents to improve home conditions and facilitate reunification."
- (3) \_\_\_\_\_ Refer to Section 30-002(s), Items (3) and (4), above.
- (4) \_\_\_\_\_
- (5) Refer to Section 30-342.311(c)(3), Item (3), above.
- (6) Refer to Section 30-002(z)(9), Item (2), above.

Sections 30-376.151(a) through (d):

These sections currently specify that a reassessment must include a description of parental compliance with the services agreement, including a description of various parental actions; and that the reassessment must also include documentation that the parent has received a reassessment summary.

Amendment of the sections to require a description of parent/guardian compliance and documentation that the parent(s)/guardian(s) has received the summary will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) MPP Section 30-002(w) defines a "reassessment" as a document which "reviews all past assessments and examines the current condition" of the child and family.
- (2) MPP Section 30-346.1 requires modification of the service plan if the reassessment indicates that the current plan no longer meets the child's needs.
- (3) 42 USC 675(l) requires a "plan for assuring...that services are provided to parents to facilitate reunification."
- (4) \_\_\_\_\_
- (5) \_\_\_\_\_ Refer to Section 30-002(s), Items (3) and (4), above.
- (6) Refer to Section 30-342.311(c)(3), Item (3), above.
- (7) Refer to Section 30-002(z)(9), Item (2), above.

Section 30-376.16(c):

This section currently specifies that copies of any information release(s) signed by the parent(s) must be maintained in the case record. Amendment of the section to require maintenance of any such release(s) signed by the parent(s)/guardian(s) will result in no substantive change in regulatory implementation due to the combined effect of those factors specified under Section 30-374.131 above.

Section 30-376.16(g):

This section currently specifies that copies of any written parental consents must be maintained in the case record. Amendment of the section to require maintenance of any written parent/guardian consents will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Refer to Sections 30-364.42 and .43, Item (6), above.
- (2) \_\_\_\_\_ Refer to Section 30-002(s), Items (3) and (4), above.
- (3) \_\_\_\_\_

Section 30-400.1:

This section currently specifies that chapter provisions apply whenever permanent placement services are provided to children who cannot safely live with their parents and are not likely to return home. Amendment of the section to require that such provisions apply when services are provided to a child who cannot safely live with his/her parent(s)/guardian(s) will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Refer to Sections 30-358.2 and .21, Item (2), above.
- (2) Refer to Section 30-002(z)(9), Item (2), above.
- (3) \_\_\_\_\_ Refer to Section 30-002(s), Items (3) and (4), above.
- (4) \_\_\_\_\_

Section 30-464.1:

This section currently specifies that applicable provisions of Section 30-364 govern the permanent placement of children whose parent(s) have voluntarily consented to such placement. Amendment of the section to require that such provisions govern the placement of a child whose parent(s)/guardian(s) has provided voluntary consent will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1)  Refer to Section 30-364.52, Items (1) and (2), above.
- (2)
- (3) Refer to Sections 30-364.42 and .43, Item (2), above.
- (4)  Refer to Section 30-002(s), Items (3) and (4), above.
- (5)

Section 30-476.141(a):

This section currently specifies that a reassessment must include a description of parental compliance with the service agreement. Amendment of the section to require a description of parent/guardian compliance will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) MPP Section 30-002(w) defines a "reassessment" as a document which "reviews all past assessments and examines the current condition" of the child and family.
- (2) MPP Section 30-446.1 requires modification of the service plan if the reassessment indicates that the current plan no longer meets the child's needs.
- (3) 42 USC 675(1) requires a "plan for assuring...that services are provided to the parents...in order to...facilitate...the permanent placement of the child."
- (4)  Refer to Section 30-002(s), Items (3) and (4), above.
- (5)
- (6) Refer to Section 30-400.1, Item (1), above.
- (7) Refer to Section 30-002(z)(9), Item (2), above.

Section 30-494.15:

This section currently specifies that the social worker(s) responsible for the parent's case management or service delivery must be permitted to participate in the administrative review. Amendment of the section to permit participation of the social worker(s) responsible for the parent'(s)/guardian'(s) case management or service delivery will result in no substantive change in regulatory implementation due to the combined effect of the following factors:

- (1) Welfare and Institutions Code Section 16503(a) requires that an administrative review determine "the continuing appropriateness and extent of compliance with the permanent plan for the child, (and) the extent of compliance with the case plan..."
- (2) 42 USC 675(1) defines "case plan" as "a plan for assuring...that services are provided to the parents..."
- (3) 42 USC 675(6) and Welfare and Institutions Code Section 16503(b) define "administrative review" as "a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review."
- (4) \_\_\_\_\_
- (5) \_\_\_\_\_ Refer to Section 30-002(s), Items (3) and (4), above.

Section 30-497.11:

This section currently specifies that the administrative review panel must direct the agency responsible for the delivery of services to the parent(s) to petition the court if a recommended change requires modification or termination of a court order.

Amendment of the section to require that the agency responsible for service delivery to the parent(s)/guardian(s) perform such action will result in no substantive change in regulatory implementation due to those factors specified under Section 30-494.15 above.

ATTACHMENT 3

Senate Bill No. 1

**CHAPTER 978**

An act to amend Sections 232 and 232.9 of the Civil Code, and to amend Sections 307, 308, 309, 311, 319, 321, 328, 330, 341, 346, 352, 356, 360, 361, 362, 364, 365, 727, 12054, 12251, 12301.1, 12304, 16500, 16501, 16502, and 16504 of, to amend the heading of Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of, to amend and renumber Sections 16505, 16506, 16507, 16508, 16509, and 16510 of, to add Sections 202.5, 206, 304.5, 366, 366.2, 366.25, 16501.1, 16501.2, 16501.3, 16503, 16504, 16504.1, 16506, 16506.1, 16507, 16507.1, 16507.2, 16507.3, 16507.4, 16507.5, 16507.6, 16508, 16508.1, 16509.1, and 16509.2 to, to add Chapter 5 (commencing with Section 10200) to Part 1.5 of Division 9 of, and to repeal Sections 206, 320, 355.8, 366, 16501.1, 16504, 16505, 16506, 16506.1, 16511, 16511.5, and 16512 of, and Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 of, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**[Approved by Governor September 12, 1982. Filed with  
Secretary of State September 13, 1982.]**

**LEGISLATIVE COUNSEL'S DIGEST**

SB 14, Presley. Public social services.

Existing law contains provisions regarding dependency, parental rights, custody and control, foster care, and adoption of children.

This bill would make modifications in these provisions.

The bill provides for various changes in procedures relating to juvenile court proceedings, such as actions for the termination of parental rights, for removal from the physical custody of the parents, and for adoption.

Existing law provides for various social services which shall be offered in order to further the welfare of children.

The bill modifies and expands the social services programs which shall be offered for the welfare of children.

The bill provides for specified county shares of the cost of administering social services programs for children and adults.

The bill would appropriate specified funds to counties received pursuant to federal law for child welfare services.

The bill would also permit the county welfare departments a 3-month phased-in implementation of the provisions of the bill.

The bill would provide that regulations adopted by the State Department of Social Services within 90 days of enactment of this bill in order to implement the bill's provisions shall not be subject to approval and review of the Office of Administrative Law.

Under existing law, funds are received for children's services

dependent child of the juvenile court pursuant to Section 300 shall not be placed in a group home or foster family home with any minor adjudged a ward of the juvenile court pursuant to Sections 601 and 602, unless the social worker or probation officer has determined that the group home or foster family home has a program that meets the specific needs of the minor being placed, and there is a commonality of needs with the other minors in the group home or foster home.

SEC. 65. Section 16511 of the Welfare and Institutions Code is repealed.

SEC. 66. Section 16511.5 of the Welfare and Institutions Code is repealed.

SEC. 67. Section 16512 of the Welfare and Institutions Code is repealed.

SEC. 68. Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 69. County welfare departments shall be permitted a three-month period commencing with the effective date of this act, for phased-in implementation of the provisions of this act.

SEC. 70. The provisions of this act shall become operative on July 1, 1982, except for Sections 37, 42, 43, 47, 49, and 50, which shall become operative on October 1, 1983.

SEC. 71. The provisions of this act shall be implemented in the most cost-effective manner possible consistent with federal law.

SEC. 72. In the event that any change in federal funds occurs after July 1, 1982, which results in a reduction of funds available for child welfare services, the department shall by regulations reduce the mandates upon counties consistent with the funding available.

In the event that child welfare services funding levels in a fiscal year fall below funding levels in fiscal year 1981-82, counties shall only be responsible for meeting child welfare service mandates, which for purposes of this act, shall be deemed to include all those activities of the probation department or county welfare departments related to juvenile court proceedings which were in effect on June 30, 1982. If the Department of Social Services must reduce the child welfare mandates contained in this act, it shall consult with the County Supervisors Association of California when developing regulations and it shall notify the Legislature in accordance with the procedures outlined in Section 28 of the Budget Act of 1982.

SEC. 73. The Legislative Analyst shall report to the Legislature on the impact of this act no later than January 1, 1983.

SEC. 74. During the 1982-83 fiscal year, the cost savings attributable to the reduction in frequency of reviews under Section 12301.1 of the Welfare and Institutions Code as amended by Section 31.5 of this act shall not revert to the General Fund, but shall be identified by the Department of Social Services in their 1982-83 budget and, shall be used to implement social service mandates resulting from this act.

ATTACHMENT 4

## 10-010 Definitions. (Continued)

- 5. (d) "Individual provider" means a person, not acting as an agent for other persons, under contract to the ~~the county~~ or a recipient to provide services to one or more recipients.
- 6. (e) "Mandated service program" means a service program ~~mandated which is provided in all geographical areas and defined in Division 30 of the Manual of Policy and Procedures and described in CASP in accordance with the provisions of the various chapters of Division 30.~~
- 7. ~~Optional service program means an optional service program provided in a geographical area for a given program year, approved by SDSS and described in CASP.~~
- 8. (f) "Primary service provider" or ~~(P"primary")~~ means a county welfare department ~~authorised by WRIC 10600 and 10800 or a division or unit of SDSS or other entity to which the state department has been directly delegated the responsibility for administering the delivery of social services. The term does not include any public or private agency or individual person under contract for the provision of services.~~
- 10. (g) "Service-funded resources activity" means a clearly delineated function ~~activity purchased from an entity other than the primary or performed or purchased by the social service staff of a Primary. Such an activity may be delivered separately from the service program of which it is a part. All Service funded resources which have been defined in Division 30 and described in CASP as~~

[JUL 22 1983]

10-010 Definitions. (Continued)

(g) (Continued)

~~part of a service program shall be made available by the Primary. The selection and use of a service funded resource available for that program shall be provided at the discretion of the Primary when necessary for goal attainment.~~

11- (h) "Service program" means a set of social service functions organized around a unifying theme, with services directed at meeting specific needs within the eligible population. Service programs are directed at the goals set forth in Section 30-001.1. The Specific service programs are identified in Division 30 and described in GLEP.

12- (i) "Single Organizational Unit" means the SDES State Department of Social Services

13- (j) "Social services" or "services" means the composite of service programs funded under Titles IV-B, IV-E and XX of the Social Security Act, and any other applicable funding sources.

14- (k) "Social services staff" means any public employee responsible, directly or indirectly, for the delivery or authorization for delivery of social services and whose salaries or wages are funded in whole or in part through Titles IV-B, IV-E, or XX of the Social Security Act. This does not extend to include employees of contract agencies under contract to the Primary for the delivery of social services, or individual contractors.

JUL 22 1983

RENUMBER SECTIONS 30-102.1 AND .10 AS NEW SECTIONS 30-002(a) THROUGH (a)(3)(A).1.; AND AMEND TO READ:

**30-002** Definitions.

.1 Abuse means the nonaccidental commission of injurious acts against the person of a child.

(a) "Abuse" means the nonaccidental commission of injuries against a person. In the case of a child, the term refers specifically to the nonaccidental commission of injuries against the child by or allowed by parent(s), guardian(s), or other person(s) in whom the court has vested care, custody, and control of the child. The term also includes emotional, physical, and sexual abuse as defined in (1) through (3) below.

(1) "Emotional abuse" means nonphysical mistreatment, the results of which may be characterized by disturbed behavior on the part of the child such as severe withdrawal, regression, bizarre behavior, hyperactivity, or dangerous acting-out behavior. Such disturbed behavior is not deemed, in and of itself, to be evidence of emotional abuse.

(2) "Physical abuse" means nonaccidental bodily injury that has been or is being inflicted on a child. It includes, but is not limited to, those forms of abuse defined by Penal Code Sections 11165(d) and (e) as "willful cruelty or unjustifiable punishment of a child" and "corporal punishment or injury."

ADOPT NEW SECTION 30-002(j) TO READ:

(j) "Family", for income eligibility purposes, means a basic family unit which resides in the same household, and which consists of one or more children, if any, and adults who are related by blood, marriage including common-law, or adoption. The following are considered one-person families: (1) unrelated adults residing together; (2) related adults other than spouses residing together; (3) children residing with nonlegally responsible relatives; (4) children living under the care of unrelated persons; and (5) emancipated minors.

RENUMBER SECTIONS 30-302(e) THROUGH (e)(5) AS NEW SECTIONS ~~30-002~~(k) THROUGH (k)(5);  
AND AMEND TO READ:

{e)-~~(k)types of foster homes:~~

(1) A licensed foster family or family home.

(2) A family home certified by a homefinding agency for its exclusive use.

(3) A foster family home which has been certified pending licensure.

(4) A licensed group home for children, as defined in Title 22, Division 6,  
California Administrative Code.

~~(5)~~ A relative other than the child's parent or guardian, pursuant to a court order or voluntary placement agreement.

JUL 22 1963

RENUMBER SECTION 30-102.8 AS NEW SECTIONS 30-002(s) THROUGH (s)(3)(A); AND AMEND TO READ:

30-002 Definitions. (Continued)

.8 (s) "Neglect" means the failure of parents or caretakers to provide a person with necessary care and protection needed. In the case of a child, the term refers to the failure of parent(s) or caretaker(s) to provide the care and protection necessary for the child's healthy growth and development. Neglect occurs when children are physically or psychologically endangered, and may be indicated by such factors as an absence of suitable clothing, safe and sanitary shelter, proper nutrition, proper sleeping arrangements, responsible supervision, or adequate medical care; or the presence of unusual anxiety, depression, or aggressive behavior. The term includes both severe and general neglect as defined by Penal Code Section 11165(c).

HANDBOOK

(1) Penal Code Section 11165(c)(1) defines "severe neglect" as follows:

(A) The negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. Severe neglect also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person

RENUMBER SECTION 30-302(q) AS NEW SECTION 30-002(ff):

(q) (ff) "State agency" means the State Department of Social Services.

RENUMBER SECTION 30-002.23 AS NEW SECTIONS ~~30-002~~(gg) THROUGH (gg)(3); AND AMEND TO READ:

~~30-002~~(gg) "Support activities" means broadly based activities related to the overall services operations. Support activities are broadly based and can seldom be identified specifically for any given program, goal or individual recipient. The Such activities benefit the recipient population in whole or in part, through Titles XX or IV-B, and are federally funded through Titles IV-B, IV-E, or XX, and are described below. Support activities include the activities

(1) "Community Organization planning" means community organization activities include making speeches and appearances at various groups within the geographical region upon request, attending and representing the Primary at various human services councils and participation in local efforts in order to develop new services to meet resolve problems, and in order to improve the coordination between already existing services.

Licensing: Social service activities claimable in respect to community based care facilities including: training sessions, counseling and technical assistance to licensees both individually and in organized groups; evaluation of the adequacy of services available in a specific facility and recommendation for change, if any; and developing suitable in facility programs to meet the needs of an identified group of recipients.

JUL 22 1973

RENUMBER EXISTING SECTION 30-302(d) AS NEW SECTION 30-302(h); AND ADOPT NEW SECTIONS 30-302(a) AND (b); (d) THROUGH (g); AND (i) THROUGH (z) TO READ:

**30-302.1 Definitions.**

- (a) "Adjusted gross monthly income" means the total of the family's monthly income, less allowable monthly expenses, plus 1/12 of the value of the family's net liquid assets.
- (b) "Allowable monthly expenses" means only the following: court-ordered payments; voluntary payments made for foster care; child care expenses necessary for a parent's employment; State Department of Mental Health charges for mental health services; charges for other mental health services initiated for the purpose of family reunification; dependent support payments; medical expenses in excess of three percent of gross monthly income; and mandated payroll deductions for retirement plans, exclusive of Social Security.
- (d) "Consumer Price Index" means the index, prepared by the federal Bureau of Labor Statistics, in which the change in the cost of typical wage-earner purchases of goods and services is measured.
- (e) "Court-ordered payments" means those payment obligations upon which a court has rendered a decision; upon which a written order of liability has been issued; and which are currently being paid.
- (f) "Dependent support payments" means payments for the out-of-home care of a child, spouse, or parent. This deduction is not allowed when the same person or persons

JUL 22 1983

30-302.3 Definitions. (Continued)

(r) (Continued)

are claimed as dependents under the State Department of Mental Health's Uniform Method of Determining Ability to Pay (UMDAP).

(g) "Family", for purposes of seeking reimbursement for voluntary services as specified in Section 30-364.7, means father and/or mother, and their dependent minor children.

(d)-(h) "Family reunification program" means that program described in Welfare and Institutions Code Section 16501.2.

HANDBOOK

(l) This statute describes the program as follows:

(A) The family reunification program is designed to provide time-limited foster care services to prevent or remedy neglect, abuse, or exploitation, when the child cannot safely remain at home and needs temporary foster care while services are provided to reunite the family.

(i) "FICA annual withholding" means an amount withheld by a person's employer for that person's social security contribution under the Federal Insurance Contributions Act.

(j) "Gross family annual income" means the annual income for all family members before deduction of taxes, or, for self-employed persons, the annual income for all family

**30-302 Definitions. (Continued)**

**(3) (Continued)**

members after deducting the costs of doing business, based on the last taxable year's income or income received during the 12 months immediately preceding application for family reunification services.

- (k)** "Gross family monthly income" means the monthly income for all family members before deduction of taxes, or, for self-employed persons, the monthly income for all family members after deducting the costs of doing business, based on the calendar month immediately preceding application for family reunification services.
- (l) "IRS dependent deduction" means that amount allowed by the Internal Revenue Service as a deduction when a taxpayer computing federal income tax payments provides 50% or more of the support of a dependent.
- (m) "IRS standard deduction" means that amount allowed by the Internal Revenue Service as a standard deduction for a taxpayer when computing federal income tax payments.
- (n) "IRS withholding percentage" means the percentage applied to the gross family income to obtain the amount to be withheld for federal income tax payments.
- (o) "Liability period" means the six-month period during which the family of a voluntarily placed child is eligible for family reunification services.
- (p) "Liquid assets" means those family assets which can be easily converted into cash, including but not limited to current savings and checking account balances, and the current market values of stocks, bonds, and mutual funds.

JUL 22 1983

AMEND SECTION 30-338.2 TO READ:

30-338. Placement Activities. (Continued)

- .2 Prior to placement of a child in a family home which is pending licensure, the worker shall certify that the home meets licensing standards, and shall complete the following additional requirements:

JUL 22 1983

AMEND SECTIONS 30-342.311 THROUGH .33 TO READ:

**30-342 Placement Case Management. (Continued)**

.3 (Continued)

.31 (Continued)

**.311** The social worker shall be permitted to have less frequent face-to-face contact, up to a minimum of once each quarter, provided that only if all of the following criteria are met:

(a) The child has no severe physical or emotional problems caused or aggravated by the placement.

(b) The placement is stable.

**(c)** The case record ~~confirms that documents the existence of~~ at least one of the following circumstances: exists

-1. (1) The child is placed with a relative.

-2. (2) The child is placed voluntarily and the parent(s)/guardian(s) is making visits at least monthly.

-3. (3) The child is under two years of age and less frequent social worker/child contact would facilitate reunification by permitting more frequent social worker/parent contact.

JUL 2003

ATTACHMENT 5

**HANDBOOK  
MONTHLY LIABILITY DETERMINATION**

**VOLUNTARY FAMILY REUNIFICATION SERVICES**

Case Name \_\_\_\_\_ Case Number \_\_\_\_\_ Date \_\_\_\_\_

Initial Determination  Redetermination Child's Name \_\_\_\_\_

Parent(s)'/Guardian(s)' Name(s) \_\_\_\_\_

Has reimbursement for family reunification services or foster care support payments been requested for this or any other child in the family?

No  Yes Child's Name \_\_\_\_\_

Parent(s)'/Guardian(s)' Place of Employment \_\_\_\_\_

(1) Determine gross family monthly income: Parent/Guardian \$ \_\_\_\_\_  
 Parent/Guardian \_\_\_\_\_  
 Other \_\_\_\_\_ Total \$ \_\_\_\_\_ (A)

(2) Determine allowable monthly expenses:

Court-ordered payments	\$ _____
Child care expenses necessary for employment	_____
Charges of UMDAP for mental health services	_____
Dependent support payments	_____
Medical expenses in excess of 3% of gross monthly income	_____
Mandated payroll deductions for retirement plans excluding Social Security	_____

Total \$ \_\_\_\_\_ (B)

(3) Subtract line (B) from line (A) to determine net income: \$ \_\_\_\_\_ (C)

(4) Determine total liquid assets:

Savings account(s) balance(s)	\$ _____
Checking account(s) balance(s)	_____
Current market value of stocks, bonds, or mutual funds	_____

Total: \$ \_\_\_\_\_ (D)

(5) Determine liquid asset allowance:

Persons in Family	Allowance
1	\$1500
2	2000
3-4	2200
5-6	2400
7	2600
8-9	2800
10 or more	3000

\$ \_\_\_\_\_ (E)

(6) Subtract line (E) from line (D) to determine net liquid assets: \$ \_\_\_\_\_ (F)

(7) Divide line (F) by 12 to determine  
monthly value of liquid assets: \$ \_\_\_\_\_ (G)

(8) Add line (C) and line (G) to determine adjusted gross monthly income: \$ \_\_\_\_\_ (H)

(9) Determine monthly liability from appropriate monthly liability schedule: \$ \_\_\_\_\_ (I)

Determined by: \_\_\_\_\_ Date: \_\_\_\_\_

If redetermination, reason: \_\_\_\_\_

I affirm that the statements made herein are true and correct to the best of my knowledge.

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

83-1222-4

ORD #1282-74

REGULATIONS FOR FILING

DEC 22 9:55 PM '83

ADMITTED  
ENDORSED  
APPROVED FOR FILING

JAN 11 1984

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY: *Linda S. McPherson*

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

AGENCY CONTACT PERSON AND POSITION

Patricia Patridge, Regulations Analyst

TELEPHONE

323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: \_\_\_\_\_

SECTIONS ~~\_\_\_\_\_~~ Repealed

11-225 through 11-225.4; 11-300 through 11-308.2

SECTIONS ~~\_\_\_\_\_~~ Adopted

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational  
Change

Editorial Correction

Authority and Reference  
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing \_\_\_\_\_

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal  
(Attach Approval)

Building Standards Comm.  
(Attach Approval)

Fair Political Practices Comm.  
(Include FPPC Approval Stamp)

Department of Finance  
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

August 5, 1983

b. DATE OF ADOPTION OF REGULATION(S)

December 19, 1983

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_

c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

FILED  
In the office of the Secretary of State  
of the State of California

JAN 11 1984  
At 4:05 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Margie Hershberger*  
Deputy Secretary of State

LEAVE BLANK

## INSTRUCTIONS FOR STD 400 (OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).

b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).

c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346 5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

a. If regulations are to be effective 30 days after filing with the Secretary of State.

b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).

c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.

d. If an effective date later than (a.) is requested, provide the date.

### Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature
- Complete rulemaking file, with index and sworn statement (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

REPEAL SECTIONS 11-225 THROUGH 11-225.4:

~~11-225 METHODS OF ESTABLISHING COUNTY FOSTER CARE RATES FOR AFDC CHILDREN~~

11-225

.1 Principles

Chapter 11-225 of these regulations shall remain in effect through June 30, 1983 and shall be applicable only to the 1982/83 rate setting process and not to subsequent years.

The purpose of the AFDC foster care payment — whether for foster family care or group home care — is to provide for each child the standard of care necessary to promote physical, mental, emotional, and spiritual growth and health and offer opportunity for participation in community life in accordance with Chapter 30-300. The procedure for establishing foster care rates in each county shall adhere to the following principles:

- .11 Foster parents should not be expected to assume financial responsibility for any part of the child's care unless by special arrangement with the agency. Established fees for foster care should include provision for the predictable direct costs of care, for care and supervision of the kind and level required by the child and for costs of other items and care identifiable to the child's need.
- .12 The rates established for payment to meet the individual needs of the child can be expected to have an influence on the level of quality of service provided. With respect to the care and supervision item, especially, the level of the established rates for such care is an indication of the agency's recognition of the value of the care and the right of the persons providing the care to reimbursement commensurate with the care provided.
- .13 Objectives and equitable criteria for establishing the rates to be paid for foster care are essential. These criteria should recognize individual differences in need related to the age of the child and the care he requires, and they should reflect realistic variations in costs which may exist within different areas of the state. The criteria should preclude the need or opportunity for individual negotiation with foster parents in securing proper care for the child in a foster family home.
- .14 Foster parents, group home providers, and cooperating agencies shall be advised of the established rates for foster care, including the specific items covered by the payments. The method of payment, including the circumstances under which advances or reimbursements for other needs will be made, needs to be clearly established with the persons or agency with whom the child is placed and to whom payments for foster care are to be made.
- .15 A county responsible for making foster care payments where the foster child has been placed in foster care in another county shall utilize the rates established by the county in which the child has been placed. If no rate has been established, a rate may be negotiated by the placing county on an individual basis. (See Section 44-221.)

~~11-225 METHODS OF ESTABLISHING COUNTY FOSTER CARE RATES FOR AFDC CHILDREN (Continued)~~

**.2 Procedure for Determining Foster Care Rates for Children in Foster Family Homes**

Each county shall establish foster family home rates to pay for care and supervision, and for other needs which are provided to a child who resides in a foster family home.

**.21 Rates for Care and Supervision**

A rate shall be established by the county for care and supervision for each of the three age groups listed below. Where the amounts vary for different age groups, the differences should reflect realistic variations in the kind of care required to provide appropriate care and supervision. Care and supervision of the infant and preschool age child, for example, may make necessary a higher rate than is paid for the child who is out of the home during part of the day. Such other factors should also be considered as the need to arrange for care for children of some age groups when the foster parents are away from home.

Provision should also be made, in determining the rate to be paid for care and supervision, for increasing the payments for care of children requiring special care as a result of health or behavior problems.

**.211 Age Groups — A rate shall be established for each of the following age groups:**

**Child under seven**

**Child, seven through 12 years**

**Child, 13 through 20 years**

**.212 The following items may be included in the rates:**

**Food**

**Clothing**

**Shelter**

**Daily supervision**

**School supplies**

**Personal incidentals**

**Liability insurance with respect to a child**

**Reasonable travel to the child's home for visitation**

**.22 Provision for Other Needs**

In establishing the payments for care of children in foster homes, the county shall make provision for costs of other items identifiable to the child's special needs (see Section 44-267).

**.23 \$12.50 Foster Parent Increase — Repealed per Manual Letter No. 79-55**

~~11-225 METHODS OF ESTABLISHING COUNTY FOSTER CARE RATES FOR AFDC CHILDREN (Continued)~~

**.3 Procedure for Determining Foster Care Rates in Private Institutions**

Each county shall negotiate payment rates with each child care institution located in the county which is (1) licensed by the State Department of Social Services and (2) utilized by the county for foster care placements.

**.31 Rates for Care and Supervision**

One or more rates will be established for each licensed child care institution utilized by the county. Whether more than one rate will be established for a given child care institution will depend on whether the institution has facilities and operating personnel which, in the county's judgment, enable it adequately to provide more than one level of child care (i.e., normal child care and one or more levels of intensive care for children with special health or behavioral problems). The AFDC-FC rate or rates for a private child care institution shall be determined by the county in accordance with the following:

**.311** The county shall base the rate(s) on actual cost data obtained from the institution covering a recent 12-month period.

**.312** Only those costs which the county considers to be reasonable and applicable to meeting the needs of AFDC-FC recipients residing in the institution shall be allowed to be incorporated into the foster care rate(s). Allowable costs are enumerated in Section 11-225.212. The reasonable activities performed by social workers employed by group home providers which are not otherwise allowable as daily supervision or as a cost of administration shall be allowable for state participation but shall not be allowable for federal participation. The county shall not incorporate into an institutional rate any costs which in its judgment do not serve to meet the needs of AFDC-FC children as specified in Section 11-225.212.

Overhead costs which are incurred primarily to benefit the institution shall not be allowed (e.g., major repairs to and capital expenditures for the facility); however, overhead costs incurred primarily to meet the needs of the children and overhead costs that are comparable to those allowed in a foster family home shall be allowed.

a. Allowable costs shall be allocated to the rate(s) on bases which the county determines to be equitable (e.g., percentage of total manhours that an institutional employee spends in meeting the needs of AFDC-FC recipients, percentage of total square footage of the building(s) that is allocable to meeting the needs of AFDC-FC recipients, percentage of the total number of residents served who are AFDC-FC recipients).

b. Where allowable costs are to be allocated on the basis of residents served, the average number of children cared for during the 12-month period on which the rate is based or 85 percent of licensed bed capacity for the 12-month period, whichever is greater, shall be used.

**.313** The rate(s) shall incorporate an inflation factor for those allowable cost items which the county determines to be subject to inflation during the period the rate(s) will be in effect. The inflation factor shall be applied to specific cost items and shall be based on either the item's cost inflation during a recent 12-month period or on the applicable U.S. Department of Labor's Consumer Price-Index, whichever the county determines to be an accurate indicator of the item's probable cost to the institution.

~~11-225~~ **METHODS OF ESTABLISHING COUNTY FOSTER CARE RATES FOR AFDC CHILDREN (Continued)**

~~11-226~~

- ~~.314 The rate(s) shall take into consideration government-mandated cost increases (e.g., amendments to the Federal Fair Labor Standards Act regarding minimum wage; Chapter 1256, Statutes of 1975, regarding employer's contribution toward Unemployment Insurance Benefits) affecting the period to which the rate(s) apply.~~
- ~~.315 The rate(s) shall not include costs which are funded by other governmental sources or by private sources where use of the funds is restricted to meeting those institutional costs determined by the county to be otherwise allowable for incorporation into the AFDC-FC rate(s). However, unrestricted or undesignated charitable donations from nongovernmental sources shall be disregarded in determining the rate(s).~~
- ~~.316 The county shall renegotiate its institutional rate(s) at 12-month intervals. However, the county may renegotiate its rate(s) at any interim time upon its determination that unanticipated institutional costs (such as but not limited to those described in .314 above) necessitate a renegotiation of the rate(s). Upon renegotiation of the rate(s) at less than a 12-month interval, the county shall advise Fiscal Policies and Procedures Bureau, SDSS, of the change(s) within 15 days after the date the renegotiation is completed.~~

**.32 Provision for Other Needs**

In addition to payment rate(s) established for each institution, the county shall make provision for costs of other items identifiable to an individual child's special needs as allowed per Section 44-267.

**.4 Submission of annual Data on County Foster Care Rates**

Each county shall send to the Fiscal Policy and Procedures Bureau, Department of Social Services, by December 15 of each year, information on the rates in effect for foster family care and for private institutional care as reflected in the county budget for the fiscal period ending the following June 30.

AUTHORITY: Welfare and Institutions Code Section 10553.

REFERENCE: Welfare and Institutions Code Sections 11460, 11461, 11462, and 11463.

REPEAL SECTION 11-300:

~~11-300 AFDC-BHI RATE INCREASES~~

Chapter 11-300 of these regulations shall remain in effect through June 30, 1983 and shall be applicable only to the 1982/83 rate setting process and not to subsequent years.

Welfare and Institutions Code 15200(b) provides that the state shall pay 95 percent of the nonfederal share of payments for foster care pursuant to Welfare and Institutions Code 11450(b) for the period July 1, 1979 to December 31, 1983. Welfare and Institutions Code 11214(b) provides that state participation will not be available for percentage increases which exceed the percentage cost-of-living increase granted to other AFDC recipients for any fiscal year beginning on or after July 1, 1979. The cost-of-living increases are: for fiscal year 1979/80, 15.16 percent effective July 1, 1979; for fiscal year 1980/81, 15.48 percent effective July 1, 1980; and, for fiscal year 1981/82, 9.2 percent effective July 1, 1981.

Pursuant to the above authority, The Department of Social Services establishes the following regulations.

AUTHORITY: Welfare and Institutions Code Section 10553.

REFERENCE: Welfare and Institutions Code Section 11214.

REPEAL SECTION 11-301

**11.301 DEFINITIONS**

**.1 Rate Increase**

Any increase in the level of the AFDC-FC payment for an individual child to a foster care provider.

**.2 A New Foster Care Provider Is:**

- .21** A facility or provider for which no written agreement existed (e.g. SOC 154 or 156) between any county and the facility or provider establishing a rate for care and services for AFDC-FC children in the fiscal year preceding that for which the rate is being established;
- .22** A facility or provider who changes license status from a foster family home, small family home or large family home, to a group home in the fiscal year for which the rate is being established. (See California Administrative Code, Title 22, Division 6 for definitions of foster family home, small family home, large family home and group home);
- .23** However, the addition of a new program, an increase in the level of services provided, a change of name, location, ownership or license without the change in license status indicated in MPP 11-301.22 does not meet the definition of new provider.

**.3 Existing Foster Care Provider**

An existing foster care provider is a facility or provider which does not meet the criteria for a new provider.

**.4 User County**

Any county which is utilizing a facility or provider for placement.

**.5 Host County**

The county in which a foster care facility or provider is located. Where a foster care provider has facilities in more than one county, the county in which the individual facility is located will be considered the host county. Where the host county has not established a rate, see Section 11-225.15.

**.6 Exception Rate**

An exception rate is a rate approved by the host county for an existing group home provider which qualifies for state participation in the full rate even though such rate exceeds the cost-of-living restriction on state participation specified in Section 11-302.13.

AUTHORITY: Welfare and Institutions Code Section 10553

REFERENCE: Welfare and Institutions Code Sections 11460, 11461, 11462, 11462.5, and 11463.

REPEAL SECTION 11-302:

~~11-302 STATE PARTICIPATION IN AFDC-FC PAYMENTS~~

~~.1 State Participation Limitations~~

- ~~.11 Except as provided in .2 below, for any fiscal year beginning on or after July 1, 1979, 95 percent state participation in the nonfederal portion of payments made for AFDC-FC children is limited to the following:~~
- ~~.111 Rates for new providers (Section 11-301.2) established in accordance with the county's existing rate setting procedures consistent with Section 11-225.~~
- ~~.112 The following rates effective June 30, 1979 for which state participation was authorized:~~
- ~~(a) For providers in operation on or before June 1, 1978, the rate amount negotiated on or before June 1, 1978, evidenced by a written agreement dated on or before June 1, 1978 which details the agreement between the county responsible for establishing the rate under Section 11-225 and the foster care provider.~~
- ~~(b) For providers commencing operation after June 1, 1978, but before July 1, 1979, the rate established prior to July 1, 1979, in accordance with the host county's existing rate setting procedures consistent with Section 11-225.~~
- ~~(c) For providers receiving authorization for state participation in an increased rate pursuant to Chapter 292 of the Statutes of 1978 (SB 154), the rate approved by the State Department of Social Services.~~
- ~~(d) Payments to foster family homes previously authorized under Section 11-225.23 (\$12.50 Foster Parent Increases) may be included when establishing base rates for increases.~~
- ~~.113 Increases in the amounts stipulated in Section 11-302.12 above granted subsequent to fiscal year 1978/79 for which state participation is to be claimed up to the percentage cost-of-living granted AFDC-FG/U recipients for the same fiscal year.~~

~~.2 Exception Rate Provision~~

- ~~.21 For payments made on or after October 1, 1982, 95 percent state participation in the nonfederal portion of payments made for AFDC-FC children shall be available in an exception rate granted by the host county.~~
- ~~.22 The host county in accordance with the requirements of .23 shall have the authority to grant an exception rate through June 30, 1983. The exception rate applies only to payments for care provided on or after October 1, 1982. State participation under the provisions of this section is not available in retroactive payments made for care that was provided prior to October 1, 1982.~~
- ~~.23 In order for an existing provider to be granted an exception rate, the following criteria must be met:~~
- ~~.231 The exception rate applies only to a new program which meets the requirements specified in .233 below. The exception rate would not apply to any other programs operated by that provider that do not meet such requirements~~
- ~~.232 The new program was initiated on or after July 1, 1979.~~

11-302 STATE PARTICIPATION IN AFDC-FC PAYMENTS (Continued)

.233 The new program meets the conditions specified in Welfare and Institutions Code Section 11462.5.

(a) *The Welfare and Institutions Code Section 11462.5 states in part that the facility must be able to document that the new rate is needed for a new program which:*

- (1) *Serves an entirely different population at an entirely different level of service than that currently served by the provider's existing program.*
- (2) *Either is located in a different facility from current programs operated by the provider or current programs operated by the provider are discontinued in favor of a new program.*
- (3) *Is clearly and exclusively serving a county need, developed in consultation with county officials.*

.234 The host county must substantiate that the criteria have been met and must certify that state general fund costs during State Fiscal Year 1982-83 shall not increase as a result of the rate increase provided.

.24 Reporting Requirements

.241 Within thirty days of granting an exception rate the host county shall report to the Department the following information about the provider who has been granted the exception rate:

- (a) The provider's name and the name of the owner or licensee if different than the provider's name.
- (b) The address(es) of the facility(es) that received the prior rate and the address of the facility that has been granted the exception rate.
- (c) The rate prior to granting the exception rate and the state participation level in that rate.
- (d) The exception rate granted.
- (e) The population(s) served by the provider under the prior rate and the population served under the exception rate.
- (f) A summary of service needs of each population and an explanation of the increased service needs of the population for which the exception rate has been granted.
- (g) A description of which previous program(s) have been discontinued in favor of the new program if the address of the new program for which the exception rate has been granted is the same as the address used by the provider under the prior rate.
- (h) The method and calculations upon which the county was able to determine that no net state general fund increase would result, including a comparison of state general fund expenditures prior to the new program with state general fund expenditures under the new program, due to the exception rate granted.

.25 The Department shall have the authority to withhold reimbursement for the exception rate when the requirements in Section 11-302.2 have not been met.

~~11-302 STATE PARTICIPATION IN AFDC-FC PAYMENTS (Continued)~~

~~.3 County Funding Option~~

~~When a county responsible for establishing the rate has determined that an increase in the rate in excess of the limitations expressed in Section 11-302.13 is necessary, but the provisions set forth in Section 11-302.2 are not met, nothing in this chapter shall preclude a county from using county funds to pay for amounts in excess of the rates for which there is state participation.~~

~~.4 Financial Audits~~

- ~~.31 Every facility, provider and county utilizing any funds for which the Department of Social Services (DSS) has been delegated responsibility concerning administration or supervision is subject to a financial audit.~~
- ~~.32 The audit may be performed by the DSS, its agents or by an audit agency of the Federal Government.~~
- ~~.33 The scope of the financial audit shall include compliance with all applicable federal and state laws, regulations and instructions based on these laws and regulations in effect during the audit period.~~
- ~~.34 Audited facilities, providers and counties shall be responsible for making available all requested records and documentation.~~
- ~~.35 Audit exceptions shall be applied against counties by the Department of Social Services.~~

AUTHORITY: Welfare and Institutions Code Section 10553.

REFERENCE: Welfare and Institutions Code Sections 11462 and 15200

REPEAL SECTION 11-303:

~~11-303 COUNTY RESPONSIBILITIES~~

Counties are responsible for establishing AFDC-FC rates under Section 11-225. This includes the responsibility for determining when rate increases are appropriate and for establishing the amount of the increase. Beginning fiscal year 1979/80, the county having responsibility for establishing rates under Section 11-225 shall not claim state participation for amounts which exceed those authorized under Section 11-302.

AUTHORITY: Welfare and Institutions Code Section 10553

REFERENCE: Welfare and Institutions Code Section 11460, 11461, 11462, and 11463.

REPEAL SECTION 11-306:

~~11-306 EFFECTIVE DATE OF STATE PARTICIPATION~~

The county shall establish the effective date for the AFDC-FC rate increase granted pursuant to this chapter; however, in no event shall it precede July 1, 1979.

AUTHORITY: Welfare and Institutions Code Section 10553.

Reference: Welfare and Institutions Code Sections 11460, 11461, 11462, and 11463.

REPEAL SECTION 11-308

**11-308 REPORTING RESPONSIBILITIES**

All counties shall report the following information to the Department of Social Services AFDC-FC Program Development Bureau on October 1, January 1, April 1, July 1 each fiscal year beginning July 1, 1979.

- .1 For each new foster care provider (Section 11-301.2), other than those providing general foster family care:
  - .11 Name of provider or facility
  - .12 Owner/operator and executive director of facility if not the same
  - .13 Address of provider or facility
  - .14 Licensing category (e.g., Small Family Home, Group Home); previous licensing category if any
  - .15 Rate(s) established by county
- .2 Rate increases which exceed the percentage limitation for which state participation is allowed:
  - .21 Name of provider or facility
  - .22 Owner/operator and Executive Director of facility if not the same
  - .23 Address of provider or facility
  - .24 Licensing category (e.g., Small Family Home, Group Home); previous licensing category if any
  - .25 Previous rate(s) and new rate(s)

AUTHORITY: Welfare and Institutions Code Section 10553.

REFERENCE: Welfare and Institutions Code Section 11462.



Amend MPP Sections 45-203.514 and .515 to read:

45-203 STATE AFDC--FC PROGRAM (Continued)

45-203

.5 Placement and Care

- 51 Except for children living with nonrelated legal guardians, in direct court placements or placed voluntarily prior to the effective date of the regulations establishing EAS Division 45, responsibility for placement and care shall be vested in one of the following agencies:  
(Continued)
  - 514 A licensed private adoption agency provided the services required in Section 45-201.4 are performed by the adoption agency. or a
  - 515 A licensed public adoption agency which is a governmental agency separate from the county welfare department, provided there is in effect a written agreement with the county welfare department, on a form prescribed by the department, that the services required in Section 45-201.4 shall be performed by that adoption agency.
- \*515.516 A district adoptions office of the department.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11401 and 11404.

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #183-6

ENDORSED  
APPROVED FOR FILING

JAN 19 1984

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services  
(AGENCY)

BY:

Rosalie Clark

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State  
of the State of California

JAN 19 1984

At 4:13 o'clock P.M.

MARCH FONG EU, Secretary of State

By Maggie Dunaway  
Deputy Secretary of State

LEAVE BLANK

## AGENCY CONTACT PERSON AND POSITION

Maggie Dunaway, Regulations Analyst

TELEPHONE

445-1878

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED 10-010, 30-001, 30-002, 30-004, 30-102, 30-132, 30-134, 30-154,  
 Title: 22, MPP SECTIONS ADOPTED 30-182, 30-192, 30-198, 30-262, 30-276, 30-376, 30-610

SECTIONS REPEALED

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

Other Regulatory Actions:

 Procedural and Organizational Change Editorial Correction Authority and Reference  
Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

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## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

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of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date **later than** 30 days after filing with the Secretary of  
State.)

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b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

### Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

AMEND THE CROSS-REFERENCE IN SECTION 30-376.131(e) TO READ:

- (e) For group home placements, the additional information specified in Sections 30-336.51 through .512(g).



## CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on August 15, 1983, and which became effective on August 15, 1983.

Manual of Policy and Procedures, Division 63, Chapters 100, 300, 400, 500, and 600, Sections:

<u>Amended</u>	<u>Adopted</u>
102	035
107	402
300	501
301	
402	
403	
409	
501	
502	
503	
505	
601	
602	

These regulations with the exception of Section 63-403.312 were presented at public hearing on October 20, 1983. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>
63-300.531	
63-402.15	
63-402.312	
63-403.312	
63-501.1	
63-501.112	
63-501.36	
63-503.12	
63-503.16	
63-602.321	

Section 63-403.312, as filed with the Secretary of State on August 15, 1983, is slightly different from that which was published for public comment. The language difference is not felt to be significant and this section is therefore being certified as having complied with Sections 11346.4 through 11346.8 of the Government Code.

  
LINDA S. McMAHON  
Director

12/16/83  
Date

UPDATED INFORMATIVE DIGEST

These regulations will repeal, adopt, and amend appropriate manual sections to 1) define elderly and disabled member with application to household definition, eligibility and benefit determination, and income deductions; 2) allow separate household status for certain elderly individuals and their spouses; 3) allow boarders to become household members at the request of the household; 4) revise method for computing striker's income; 5) revise age limit for use of net income eligibility standard; 6) define initial month and eliminate issuances of less than \$10 for initial month; 7) change resource provision for IRA's and Keough Plans; 8) expand household definition for parent/child and siblings living together; 9) provide alternate ATP delivery system; 10) provide consistency with current alien regulations so that verification of questionable citizenship must be provided prior to certification; and 11) provide for only one and two member household minimum benefits during reduction.

FINAL STATEMENT OF REASONS

a) General Purpose of the Regulations

These regulations will implement the last remaining changes of the 1981 Omnibus Reconciliation Act for food stamps, as well as the Administrative Flexibility Rule, and Eligibility Criteria and Reduction or Termination of Benefits Changes.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

Unless otherwise stated all changes proposed are made to comply with federal regulations.

Section 63-035 is being adopted to implement these proposed regulations.

Section 63-102 currently provides a definition of an "Elderly Person." This definition is being amended by expanding its use to include disabled members.

Section 63-107 currently regulates the reduction, suspension, or cancellation of benefits. These regulations will be amended by restricting the guaranteed minimum benefit level to one and two person households only, and require that computers be programmed to round benefit levels to two, four, and six dollars. One and two member households will be guaranteed no less than \$10 minimum benefit. Also benefits will be restored should Food and Nutrition Services make that determination.

Section 63-300 currently describes procedures for processing food stamp application. This regulation will amend the requirements for household composition by 1) requiring the individual to prove that they are a separate household when that status is in question; 2) requiring the eligible individual to obtain any income information and/or physician's statement on other individuals residing with them and providing such information to the eligibility worker when requested; and 3) providing a physician's statement on a permanently disabled household member when the disability is not apparent.

Section 63-301 currently defines processing time standards for applications. Specific standards for handling expedited services are only being amended by including an additional

reference citation. The change is made at the Department's initiation for the purpose of maintaining consistency.

Section 63-402 currently identifies what qualifies as a household, who may be included in a given household, boarder status, and the participation of strikers with an eligible household. These regulations amend the definition of household by including a person who qualifies as an elderly or disabled member. They also revise language currently used to prevent the granting of separate household status and adds the new case of siblings living with other siblings unless one is elderly or disabled to the list. These regulations will adopt as a separate household an individual, living with others, who is 60 years of age or older and has a disability considered permanent as long as the remaining household's income does not exceed 165 percent of the monthly income eligibility standard. Currently boarders are ineligible to participate in the Food Stamp Program. These regulations will now allow boarders to be included but only at the request of an eligible household. Further, a parent living with his/her children or conversely children living with their parent may not be considered a boarder unless they qualify as an elderly or disabled individual. Currently the definition of a striker does not include one participating in a work slow down. These regulations will now include such persons as well as requiring a striker who is exempt from work registration to qualify for that exemption on the day prior to the strike. These regulations will also require counties to compare a striker's income prior to the strike with any anticipated income and using the larger amount to determine the household's eligibility and benefit level.

In order to remain consistent, the Department is repealing Section 63-402.94 as it is no longer valid.

Other changes are made for purposes of clarity and consistency with current regulations.

Section 63-403 currently provides for the processing of alien status and questionable citizenship. Individuals who have not provided proof of citizenship can participate in the program for up to two months. These regulations will make any individual who can not provide proof of citizenship ineligible for participation until they do so.

Section 63-409 currently establishes the maximum income and resource standards for the program. These regulations will amend the application of these standards to individuals who will be age 60 by the end of the month of application.

Section 63-501 currently provides for the determination of resources in qualifying individuals for the program. The Department is amending the introductory paragraph by adding a reference citation. The definition of liquid resources is amended to include individual retirement accounts (IRAs) and Keogh plans. Current regulations allow certain exclusions from resources to be claimed. These regulations will amend this section by adding IRAs and Keogh plans except those which have a contractual relationship.

Also, some households receiving AFDC shall have satisfied the resource eligibility criteria.

Section 63-502 is amended to include several reference citations for the new elderly or disabled definition.

Section 63-503 currently regulates the determination of household eligibility and benefit levels. These regulations amend the month of eligibility requirements to specifically identify the two conditions normally accepted in the use of the term "initial month" and changes the rounding procedure from 49 cents down, 50 cents plus up, to rounding to the nearest lower whole dollar. If the proration results in an allotment of less than \$10 there is no issuance for the initial month. Current regulations allow for recertification applications to be submitted after the certification period expires. These regulations will treat such applications as an initial application. Current regulations allow for a minimum \$10 allotment for one and two person households. These regulations will not allow that minimum allotment during an initial month. In all other months, households will receive the current coupon book determination.

A deletion has been made to implement new federal regulations.

Additional areas are amended to include references on the elderly or disabled definition and minor wording changes or to provide clarity or consistency.

Section 63-505 is amended to reference the elderly or disabled definition.

Section 63-601 currently describes county responsibilities. These regulations will require counties to assist elderly households in obtaining their coupons via mail issuance or authorized representative.

Section 63-602 currently provides for the mailing of ATPs. These regulations are amended to provide the counties with the option of mailing ATPs or providing some alternate method.

c) Identification of Documents Upon Which Department is Relying

Welfare and Institutions Code Sections 10553, 10554, 18901, and 18904. 7 CFR 271.2, 271.7, 273.1, 273.2, 273.8, 273.9, 273.10, 274.1, and 274.2.

d) Testimony Summary and Response

On October 20, 1983 these regulations were held for public review and comment. No oral testimony was received but the following did provide written testimony: El Dorado County Welfare Department (EL CWD); Orange County Social Services Agency (OR CSSA); Ventura County Public Social Services Agency (VEN PSSA); and the Federal Food and Nutrition Agency (FNS). Their comments and the Department's responses are provided below.

Section 63-102(i)

Comment: FNS stated that the definition for "elderly or disabled member" include those persons receiving benefits under Titles I, II, XIV, or XVI of the Social Security Act.

Response: The Department has omitted Titles I and XIV of the Social Security Act because these titles apply to recipients of Puerto Rico, Guam, and the Virgin Islands who receive SSI benefits under other titles of the Social Security Act. Title XVI benefits in California are paid under SSI. Recipients of SSI in California are not eligible for food stamps but instead receive a larger cash grant. Title II is included in the regulation.

Comment: VEN PSSA questioned the correctness of the referenced Section 221(1) of the Social Security Act and its application under Titles II and XVI.

Response: The referenced cite is correct. The Department has provided additional language in Section 63-300.531(b) to assist counties in the application of this cite.

Section 63-102qqq

Comment: FNS commented that this definition posed some confusion and suggested that "excluded members" be defined separately.

Response: The definition for "household member", included in the text for public hearing, was removed from the proposed regulations prior to their filing. The published text was already in progress at that time and this definition could not

be withdrawn without disrupting the public hearing date. It is the Department's intention not to define a "household member" at this time.

Section 63-300.531

Comment: VEN PSSA and OR CSSA both pointed out an incorrect reference cite.

Response: The Department agrees with the counties and has amended the referenced cite.

Comment: VEN PSSA also commented in this section on the application by eligibility workers of Section 221(i) of the Social Security Act.

Response: The Department has amended this section to assist counties in its application.

Section 63-402.15

Comment: VEN PSSA questioned whether this section applied to just those individuals over 60 years of age or were they to include those persons qualifying as elderly or disabled under the new definition in these regulations.

Response: The section strictly refers to those individuals 60 years of age or older and suffers from a disability considered permanent. It is not intended to include those who could qualify as elderly or disabled and be less than 60 years of age.

Comment: VEN PSSA expressed a need for some criteria which eligibility workers could use to determine a "nondisease-related, severe, permanent disability".

Response: The Department believes that if an eligibility worker is confronted with a questionable "nondisease-related, severe, permanent disability" they should refer to Regulation on Verification or Questionable Information Section 63-300.531.

Comment: VEN PSSA also questioned separate household status if the household could not pass the 165 percent test.

Response: If the household does not pass the 165 percent test for separate households then the individual and all resources would be considered in establishing one household.

Comment: FNS pointed out that 165 percent of the food stamp gross monthly income standard was incorrect and suggested the section be revised to read 165 percent of the federal income poverty guideline.

Response: The Department has amended this section to reflect the federal income poverty guideline.

Section 63-403.312

This section received no testimony but the Department has amended it to remove a twice stated line. Current language differs from that taken to public hearing due to the fact that the public hearing text was being printed when the Department changed and adopted this section. The Department believes that the language adopted and certified to in this package is sufficiently related to the text made available to the public and that the public was given adequate notice that the adopted language would result from that which was originally published for public hearing. The adopted language change was issued to all CWDs during the 45-day review period. This text was also made available to the public for at least 15 days prior to filing of the certification of compliance.

The adopted language and the language that was printed for the public hearing are sufficiently related in that they both speak to the application of a recipient's income when that recipient's citizenship is in question. Section 63-503.54, referred to in the adopted language, does not include recipients whose citizenship is in question. The Department has therefore placed the language in Section 63-403.312 for clarity and ease of application. The Department believes that neither the general public nor the recipient is jeopardized by the acceptance of the adopted text and has therefore certified that this section has met all APA requirements.

Section 63-501.1, .112, and .3(b)

No testimony was received on this section, but two editorial changes have been made reducing county welfare department to CWD in Section 63-501.1 and reducing Individual Retirement Accounts to IRAs in Section 63-501.112. In Section 63-501.3(b) the reference to Section 63-102qqq has been deleted since the definition in that section was not filed.

Section 63-503.12 and .16

The Department has amended this section by showing the repeal of a sentence that was inadvertently omitted at the time of filing.

section be revised to read 165 percent of the federal income poverty guideline.

Response: The Department has amended this section to reflect the federal income poverty guideline.

Section 63-403.312

This section received no testimony but the Department has amended it to remove a twice stated line. Current language differs from that taken to public hearing due to the fact that the public hearing text was being printed when the Department changed and adopted this section. The Department believes that the language adopted and certified to in this package is sufficiently related to the text made available to the public and that the public was given adequate notice that the adopted language would result from that which was originally published for public hearing. The adopted language change was issued to all CWDs during the 45-day review period. This text was also made available to the public for at least 15 days prior to filing of the certification of compliance.

The adopted language and the language that was printed for the public hearing are sufficiently related in that they both speak to the application of a recipient's income when that recipient's citizenship is in question. Section 63-503.54, referred to in the adopted language, does not include recipients whose citizenship is in question. The Department has therefore placed the language in Section 63-403.312 for clarity and ease of application. The Department believes that neither the general public nor the recipient is jeopardized by the acceptance of the adopted text and has therefore certified that this section has met all APA requirements.

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No testimony was received on this section, but two editorial changes have been made reducing county welfare department to CWD in Section 63-501.1 and reducing Individual Retirement Accounts to IRAs in Section 63-501.112. In Section 63-501.3(b) the reference to Section 63-102qqq has been deleted since the definition in that section was not filed.

Section 63-503.12 and .16

The Department has amended this section by showing the repeal of a sentence that was inadvertently omitted at the time of filing.

Comment: VEN PSSA commented that the reference cited in this section was incorrect.

Response: The Department agrees and has changed the reference cite from Section 63-503.11 to Section 63-503.12.

Comment: OR CSSA suggested that for clarity the word "submitted" be changed to either "filed" or "received."

Response: The Department agrees that the word "received" provides additional clarity and does follow the federal intent in that "submitted" means received in the office. The text has therefore been changed to read "received."

Comment: EL CWD suggested that Section 63-503.16 be revised to state that late recertification is not considered a new application for reporting purposes.

Response: The Department can not accept the county's suggestion as this section of the regulations addresses only the issuance of benefits and not the county's reporting requirements.

#### Section 63-602.321

No testimony was received on this section but some of the current language was omitted in this section. Since it was not the intention of the Department to amend the last sentence of this section we are simply readopting the language that was present prior to the filing of these regulations.

#### e) Local Mandate Statement

These regulations do constitute a mandate to local agencies but not to any school district.

There are no state mandated local costs in this order that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no significant costs that can be identified.

#### f) Statement of Potential Cost Impact on Public Agencies, Private Persons, or Entities Directly Affected

The Department of Social Services finds that the adoption of these regulations will result in no significant cost impact on public agencies, private persons, or entities directly affected.

g) Small Business Impact Statement

The Department of Social Services finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses.

h) 15-Day Renotice Statement

A 15-day renotice has been published and the text of any changes made available to the public pursuant to provisions of Section 11346.8 of the Government Code.

Adopt Section 63-035 to read:

63-035 IMPLEMENTATION OF ADMINISTRATIVE/ELIGIBILITY  
AMENDMENTS REGULATIONS

63-035

*Public Laws 97-35, 97-253 and 96-354*

~~Sections as amended herein pursuant to USC 2012, 2014, 2015,  
2017, 2018, 2020, 2021, 2022, and 2025 shall become effective no  
later than October 1, 1983 month 30 days following filing for all  
new applications and no later than recertification for current  
caseload except as follows:~~

- 1 The provision of elderly and disabled members applied to household definition, eligibility and benefit determination, and income deductions still apply retroactively to September 8, 1982 for those persons who had requested and were denied separate household status or other considerations granted by the provision on or after September 8, 1982 and who request retroactive benefits.
- 2 Provisions for the initial month Section 63-503.1 and minimum benefits during reduction under Section 63-107 shall become effective immediately if Food and Nutrition Service (FNS) reduces benefits August 1, 1983; if FNS does not reduce benefits August 1, 1983 then to become effective the first of the month 30 days following the filing with the Secretary of State.

This implementation order requires changes to be made to the following sections: 63-102, 107, 300, 301, 402, 403, 409, 501, 502, 503, 505, 601, and 602.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 18904.

Reference: Welfare and Institutions Code Section 18901; 7 CFR 271.2, 271.7, 273.1, 273.2, 273.8, 273.9, 273.10, 274.1, and 274.2.

Amend Section 63-300.531 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.53 Verification of Questionable Information (Continued)

.531 Household Composition

- a. The eligibility worker shall verify any factors affecting the composition of a household if questionable. Individuals who wish to be a separate household from those with whom they reside shall be responsible for proving that they are a separate household. Individuals described in Section 63-402.145, who wish to be a separate household, shall also be responsible for obtaining the cooperation of the individuals with whom they reside in providing necessary income information to the eligibility worker, and for providing (at eligibility worker request) a physician's statement that they cannot purchase and prepare their own meals.
- b. For any household member affirming a permanent disability that is questionable (not apparent) to the eligibility worker, under clause (5) of the definition of "Elderly or disabled member" as defined in Section 63-102(i), the household shall provide (at eligibility worker request) a statement from a physician or licensed or certified psychologist to assist the eligibility worker in making a disability determination.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 18904.

Reference: Welfare and Institutions Code Section 18901; 7 CFR 271.2 and 273.2(f).

Amend Section 63-402.15 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.1 Household definition (Continued)

- .15 An individual who is 60 years of age or older living with others (and the spouse of such individual) who is unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act or suffers from a nondisease-related, severe, permanent disability. However, the income (all income included under Section 63-502.1) of the others with whom the individual resides (excluding the income of such individual's spouse) cannot exceed 165 percent of the federal income poverty guidelines Food Stamp Program's gross monthly income eligibility standard per table, Income Standard for Separate Household Status, see Section 63-1101.10, Income Standard for Elderly and Disabled Separate Household Status.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 18904.

Reference: Welfare and Institutions Code Section 18901; 7 CFR 271.2 and 273.1(a), (c), and (g).

Amend Section 63-403.312 to read:

**63-403 CITIZENSHIP AND ALIEN STATUS (Continued)**

**63-403**

**.3 Verification (Continued)**

**.31 Verification of Citizenship (Continued)**

**.312** The member whose citizenship is in question shall be ineligible to participate until proof of U.S. citizenship is obtained. Until proof of U.S. citizenship is obtained, the member whose citizenship is in question shall have his or her income prorated. This prorata share is calculated by first subtracting the allowable exclusion from the questionable citizen's income and dividing the income evenly among the food stamp household member(s), disqualified member(s), ineligible alien(s), and questionable citizen(s). All resources of the questionable citizen shall be considered available to the food stamp household and not prorated.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18901; 7 CFR 273.2(f).

Amend Sections 63-501.1, .112, and .3b to read:

63-501 RESOURCE DETERMINATIONS

63-501

The CWD shall apply the uniform national resource standards of eligibility to all applicant households, except as provided by Section 63-501.8.

.1 Definition of Resources

In determining the resources of a household, the following shall be included and documented by the county welfare department CWD in sufficient detail to permit verification:

- .11 Liquid resources, such as cash on hand, money in checking or savings accounts, savings certificates, trust deeds, notes receivable, stocks or bonds, non-recurring lump sum payments, funds held in individual retirement accounts (IRAs) and funds held in accessible Keogh plans.
- .111 A non-recurring lump sum payment includes, but is not limited to, income tax refunds, rebates or credits; retroactive active lump-sum social security, public assistance, railroad retirement benefits, or other payments; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other Federal law in accordance with Section 501.3(k), (1) through (7) or by Section 63-501.3(1).
- .112 Funds held in individual retirement accounts (IRAs), and funds held in accessible Keogh plans (those which do not involve the household member in a contractual relationship with individuals who are not household members) are also considered liquid resources. In counting resources of households with IRAs or accessible Keogh plans, the CWD shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan.

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

**.3 Exclusions from Resources (Continued)**

- b. Households goods, personal effects, including one burial plot per household member, and the cash value of life insurance policies the cash value of pension plans or funds shall be excluded, except for individual retirement accounts (IRAs) and Keogh plans which involve a contractual relationship with individuals who are household members as defined in Section 63-102qqq.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18901; 7 CFR 273.1 and 273.8(c) and (e).

Amend Sections 63-503.12 and .16 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND (Continued) 63-503  
BENEFIT LEVELS

.1 Month of Eligibility (Continued)

.12 A household's prorated benefit level for a) the initial month of certification, or b) the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation, shall be based on the day of the month it applies for benefits or the day the application is received in the appropriate office (see Section 63-300.31). Using a calendar or fiscal month, households shall receive benefits prorated from the day of application to the end of the month. Refer to Handbook Section 63-1101 for Reciprocal Table for computing first month benefits. When determining the amount of the prorated allotment, the EHB shall use the actual amount of \$1, \$3, or \$5 benefits for the full month's benefits instead of the rounded amount of \$2, \$4, and \$6.

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND (Continued) 63-503  
BENEFIT LEVELS

.1 Month of Eligibility (Continued)

.16 Eligibility and the level of benefits for recertifications shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. If an application for recertification is submitted received after the household's certification period has expired, then that application shall be considered an initial application and benefits for the month prorated in accordance with Section 63-503.12.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 18904.

Reference: Welfare and Institutions Code Section 18901; 7 CFR 271.2 and 273.10(a), (c), and (e).

Amend Section 63-602.321 to read:

63-602 ISSUANCE SYSTEMS (Continued)

63-602

.3 ATP Requirements (Continued)

.32 Issuance of ATPs

.321 Mailing of ATPs

The CWD has the option to either mail the ATP or use an alternate method of ATP delivery except when the ATP is issued as a replacement or under expedited services as specified in Sections 63-605 and 63-301.5. When the ATP is mailed to the household it shall be mailed in a first class nonforwarding envelope. The county CWD may also use certified mail for ATP delivery, however it shall and may use an alternative means for ATP delivery for households which report two consecutive losses of ATPs through the mail within a six-month period.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18901; 7 CFR 274.2(e).

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #1283-78

RECEIVED FOR FILING

JAN 13 10 03 AM '84

OFFICE OF  
ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING

JAN 23 1984

Office of Administrative Law  
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

*Linda S. McNamee*

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

In the office of the Secretary of State  
of the State of California

JAN 23 1984

At 4:12 o'clock M.

MARCH FONG EU, Secretary of State

By *Cathleen Patrick*

Deputy Secretary of State

LEAVE BLANK

## AGENCY CONTACT PERSON AND POSITION

Janet Lombard, Regulations Analyst

TELEPHONE

3-1899

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

Title: \_\_\_\_\_

## SECTIONS ADOPTED

50-011

## SECTIONS REPEALED

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

Other Regulatory Actions:

 Procedural and Organizational  
Change Editorial Correction Authority and Reference  
Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES. State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)     (Attach Approval)     (Include FPPC Approval Stamp)     (Attach STD. Form 399)7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF ADOPTION OF REGULATION(S)

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

January 12, 1984

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on January 23, 1984 as required by statutes: (list) Government Code Section 11346.1(d)c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

Adopt MPP Section 50-011 to read:

50-011 ZAPATA V. WOODS

50-011

•1 Background

On April 20, 1981, the Los Angeles Superior Court issued a judgment invalidating EAS Section 44-205 and 44-206 insofar as they deny AFDC benefits to needy relatives on the sole grounds that all dependent children in the family unit are receiving Supplemental Security Income (SSI). The judgment was stayed while the Department's appeal was pending.

On October 3, 1983, the United States Supreme Court refused to hear the Department's appeal of the judgment. By refusing to hear the case, the Supreme Court upheld the order issued by the Superior Court. Under the terms of the order, the Department must implement within 120 days the portion of the order requiring retroactive benefits.

The time period for retroactive benefits under the Superior Court order is from January 27, 1975 through November 30, 1983. The following provisions describe the procedure by which retroactive AFDC benefits will be claimed and eligibility for benefits determined.

•2 Informing potentially eligible persons of the availability of retroactive payments.

•21 In order to notify the class of potentially eligible persons, the Department shall:

•211 Enclose a notice informing current blind and disabled SSI recipients of the Zapata v. Woods decision with each February 1984 Medi-Cal card.

•212 Issue posters in English and Spanish informing the general public of the Zapata v. Woods decision.

(a) These notices shall be posted in county welfare departments and local Social Security Administration offices from January 23, 1984 until May 23, 1984.

•213 Issue letter-size notices identical to the posters, to each local office of the county welfare departments and 150 copies to plaintiff's counsel.

- .22 In order to notify the class of potentially eligible persons, the county welfare department (CWD) shall:
  - .221 Post State Department of Social Services (SDSS) supplied posters in a conspicuous location in each local office of the CWD from January 23, 1984 through May 23, 1984.
  - .222 Give to any person who so requests, a letter-size notice identical to the poster.

### .3 Application for Retroactive Payment and Claims Processing

#### .31 Claimant Responsibility

- .311 The claimant shall contact the CWD to obtain an application/claim form (TEMP 1587).
- .312 The claimant shall complete the claim form, sign it under penalty of perjury and send the form to the CWD in the county where he/she lives.
- .313 The claim form shall be submitted to the CWD by April 30, 1984. Claims submitted after this date shall be denied. Unless the evidence indicates otherwise, the date submitted shall be determined as follows:
  - (a) If the claim is mailed to the CWD, the postmark date of the envelope; or
  - (b) If the claim is delivered in person to the CWD, the date stamped on the claim; or
  - (c) If the date cannot be determined by (a) or (b) above, the date the claim was signed.
- .314 The claimant may resubmit a previously denied claim or portion thereof if the date of resubmittal is in accordance with .313 above.
- .315 The claimant shall cooperate in obtaining all information/verification necessary to process the claim in accordance with MPP Section 40-157. Failure to provide the needed information/verification shall result in denial of that portion of the claim which the information/verification is for. See Section 50-011.47.

#### .32 CWD Responsibility

- 321 The CWD shall provide in person or by mail an application/claim form (TEMP 1587) to the claimant upon request.
- 322 The CWD shall stamp each claim with the date the form was submitted as specified in •313 above.
- 323 If the CWD receives a claim form on which the claimant indicates another CWD as the CWD which denied or discontinued aid, and the claimant is unable to provide verification of the denial or discontinuance, the CWD shall request a copy of the denial or discontinuance notice from the CWD indicated on the claim form.
- 324 If a CWD receives a claim form on which the claimant indicates he/she lives in another county, the CWD shall forward the claim to that county for the determination of eligibility and the amount of retroactive aid. In addition, the first CWD shall inform the claimant in writing that his/her claim has been forwarded to the welfare department in the county where he/she lives.
  - (a) The date of submittal of the claim form by the claimant shall be the date it was submitted to the first CWD as specified in •313 above.
- 325 The CWD shall determine eligibility and issue retroactive aid to eligible claimants or deny the claim, as appropriate, within 60 calendar days of receipt of the claim form except as provided in (b) below.
  - (a) Within this same 60-day period, the CWD shall issue a Notice of Action explanation to the claimant for retroactive aid indicating: (1) disposition of the claim, (2) computation of retroactive aid, and (3) the claimant's right to request a state hearing.
  - (b) Inability to complete the determination of eligibility within the 60-day period shall not be a basis for denying the claim unless the delay is caused by the refusal of the claimant to participate in the gathering of evidence in accordance with Section 40-157. The specified time limit may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the

control of the CWD. In these instances the case record must show the cause for delay.

.326 The CWD shall submit to the State Department of Social Services (SDSS) a statistical report on or before July 12, 1984. The report shall be submitted on a form provided by SDSS and shall contain:

- (a) The number of Zapata claims received;
- (b) The number of Zapata claims denied;
- (c) The number of Zapata claims granted in full or in part;
- (d) The number of Zapata claims pending a decision as of June 30, 1984, and
- (e) The total dollars paid to Zapata claimants.

.4 Determination of Potential Eligibility for Retroactive Payments

.41 Needy relatives potentially eligible to receive retroactive payments are caretaker relatives/parents whose AFDC benefits were denied or discontinued any time from January 27, 1975 through November 30, 1983 solely because the only child(ren) for whom aid was requested received SSI.

.411 The period of potential eligibility for retroactive aid of an individual claimant begins on the date of his/her application for AFDC which was denied, or the effective date of discontinuance from AFDC if the action occurred later than January 27, 1975 and ends November 30, 1983.

.412 The period of potential eligibility is limited to the period of time the child(ren) received SSI.

.42 Needy relatives potentially eligible to receive retroactive payments must have met the following linking and nonlinking factors of AFDC eligibility in effect during the period for which retroactive aid is being claimed:

.421 Basis of deprivation: for AFDC-FG as specified in MPP Section 41-400; for AFDC-U as specified in MPP Section 41-440.1i

- .422 Age of the child(ren) as specified in MPP Section 42-101;
  - .423 Income eligibility of the needy relative(s) as specified in .46 below;
  - .424 Resource limits of the needy relative(s) as specified in MPP Chapter 42-200, including the provision for resources excluded pursuant to MPP Section 42-213.2(t);
  - .425 Residence and citizenship of the needy relative(s) as specified in MPP Chapter 42-400;
  - .426 Qualification of the needy relative as a caretaker relative as specified in MPP Section 44-203; and
  - .427 Institutional status of the child(ren) as specified in MPP Chapter 42-500.
- .43 Failure to provide the information on the claim form necessary to establish eligibility regarding the factors specified in .42 above shall result in denial of that portion of the claim for which the factor(s) of eligibility is (are) not established in accordance with .47 below.
- .44 Verification of the eligibility factors contained in .41 and .42 above is required. If verification is unavailable, certification as specified in .444 is required.
- .441 Verification supporting .41 above includes the following:
- (a) Proof of denial/discontinuance from AFDC. The CWD shall provide the information from the case record if it is available.
  - (b) If the case record is unavailable, verification which the claimant may provide includes, but is not limited to:
    - (1) A copy of a Notice of Action or a state hearing decision indicating that the claimant was denied or discontinued AFDC for the sole reason that the only child(ren) received SSI.
    - (2) A copy of any other official document indicating the claimant's denial or

discontinuance of AFDC for the sole reason  
that the only child(ren) received SSI.

(c) Proof of the period of time the child(ren)  
received SSI. The proof shall be obtained  
pursuant to .442 below.

.442 Verification supporting .42 above includes the  
following:

(a) The verification requirements contained in each  
MPP section specified under .42, except .422.

(b) Information received from the Social Security  
Administration (SSA).

.443 The CWD shall request from the local office of the  
SSA the following information using form SSA-1610-U2  
unless the claimant chooses to provide verification  
of (a), (b), and (c) below. A separate form must be  
submitted for each child in the home.

(a) The time period the child received SSI.

(b) The date of birth of the child.

(c) The gross amount of earned and unearned income  
of the parent as contained in the SSA files.

.444 If the verification specified in .441 and .442(a) is  
not reasonably available the claimant must provide  
the reason(s) on the claim form. The CWD may make  
any third-party contacts it determines to be  
necessary. A consent form shall be used for this  
purpose in accordance with MPP Section 40-157-22.

(a) Acceptable reasons for the unavailability of  
verification include, but are not limited to:

(1) The destruction or loss of records.

(2) Inability on the part of the claimant to  
locate the third party in order to supply  
the verification.

(3) The refusal or inability on the part of  
the third party to supply the  
verification.

(4) Other circumstances beyond the control of the claimant.

(b) If verification is not obtained and the CWD determines it is reasonably available, the CWD shall request the verification in accordance with .47 below.

.445 Information received from the SSA shall be compared to the information provided by the claimant.

(a) The information provided by the SSA regarding the time period the child(ren) received SSI shall be used to determine the retroactive aid period.

(b) The information provided by the SSA regarding the date of birth of the child(ren) shall be used to determine the retroactive aid period.

(c) The information provided by the SSA regarding the amount of gross earned and unearned income of the parent(s) would require the CWD to send a notice in accordance with .47 below only when the parent(s) indicated no income on the claim form. Otherwise when a parent(s) has provided information/verification regarding income, that information/verification shall be used for the eligibility and retroactive payment determinations even when it differs from SSA information.

.446 Discrepancies arising as a result of a third-party contact shall be resolved in accordance with MPP Section 40-157.

.45 The size of the Assistance Unit shall be based on the number of persons who may be included in the Assistance Unit specified in MPP Section 44-203, and for whom retroactive aid is being claimed.

.451 If retroactive aid is claimed for a person not entitled to be included in the Assistance Unit as specified in MPP Section 44-203 or who must be excluded as specified in MPP Section 44-206, that portion of the claim shall be denied.

.452 If retroactive aid is claimed for both the caretaker relative and the spouse of the caretaker relative

living in the home who may be included in the Assistance Unit, both shall sign the claim form.

(a) If either one or both of the relatives fails to sign the claim form the CWD shall not include that relative in the Assistance Unit, and shall issue a denial notice after requesting a signature in accordance with .47 below.

.46 150 Percent Income Limit on Eligibility

.461 The Assistance Unit, as determined in .45 above, is ineligible for any calendar year or portion thereof being claimed, within the period from December 1, 1981 through November 30, 1983 when: (a) the total gross income of the family for the calendar year or portion thereof exceeds 150 percent of MBSAC for the number of persons in the Assistance Unit. Gross income is defined in Chapter 44-100 with the exceptions listed in MPP Section 44-207.211. When the gross income includes the income of a parent living in the home who is not included in the Assistance Unit, the MBSAC shall be increased by one for him/her.

.462 The value of 150 percent of MBSAC from December 1, 1981 through November 30, 1983 is as follows:

Time Period	
12/1/81	7/1/83
to	to
<u>6/30/83</u>	<u>12/31/83</u>

1 person:	\$372	\$387
2 persons:	612	636

**Example:** An Assistance Unit of one is otherwise eligible to receive retroactive aid from January 1981 through June 1983. He/she reports gross income received: (1) between March 1982 through November 1982 of \$3420; and (2) between January 1983 through June 1983 of \$2280. The calculation of the 150 percent income limit of eligibility is as follows:

H  
A  
N  
D  
B  
O  
O  
K

1982

- (1) Determine number of months being claimed (12).
- (2) Multiply number of months by value of 150 percent of MBSAC in .462 above for correct assistance unit size ( $12 \times \$372 = \$4464$ ).
- (3) Compare gross income to total 150 percent limit in (2) ( $\$3420$  to  $\$4464$ ). The Assistance Unit is eligible for 1982 because its gross income is less than 150 percent of MBSAC.

1983

- (4) Determine number of months being claimed (6).
- (5) Multiply number of months by value of 150 percent of MBSAC in .462 above for correct assistance unit size ( $6 \times \$372 = \$2232$ ).
- (6) Compare gross income to total 150 percent limit in (5) ( $\$2280$  to  $\$2232$ ). The assistance unit is ineligible for 1983 because its gross income is greater than 150 percent of MBSAC.

.47 The CWD shall request missing or incomplete information or verification it determines should be available which is necessary to determine eligibility and benefit levels. Claims submitted on or before the dates listed in .313 above shall be held open pending receipt of county-requested information for 30 days after the request for additional information is made. At the end of the 30-day period, the county shall, based on the information available, determine eligibility and make retroactive payment or deny the claim in accordance with .315, .325, and .4 above, and .5, and .6 below.

(a) If the claimant requests assistance, the CWD shall in accordance with MPP Sections 40-107-1 and 40-157-2 assist the claimant as needed in establishing his/her eligibility.

.5 Determination of the Amount of Retroactive Payment

.51 Basic Grant: The amount of the basic grant shall be calculated as follows:

.511 Based on the size of the Assistance Unit determined in .45 above, determine the Maximum Aid Payment (MAP) for the period of the claim which the claimant is eligible to receive.

**H**  
**A**  
**N**  
**D**  
**B**  
**O**  
**K**  
**H**  
**A**  
**N**  
**D**  
**B**  
**O**  
**K**

.512 MAP levels from January 1, 1975 through December 31, 1983 are as follows:

	Time Period				
	1/1/75 to 6/30/75	7/1/75 to 6/30/76	7/1/76 to 12/31/76	1/1/77 to 6/30/77	7/1/77 to 6/30/79
1 person:	129	144	157	166	175
2 persons:	212	237	258	273	287

	Time Period				
	7/1/79 to 6/30/80	7/1/80 to 12/31/80	1/1/81 to 6/30/81	11/1/81 to 6/30/83	7/1/83 to 12/31/83
1 person:	201	232	227	248	258
2 persons:	331	382	374	408	424

**H**  
**A**  
**N**  
**D**  
**B**  
**O**  
**K**  
**H**  
**A**  
**N**  
**D**  
**B**  
**O**  
**K**

**Example:** An Assistance Unit of one is eligible to receive retroactive aid from January 1977 through May 1978 and from January 1979 through December 1980. The calculation of the MAP amount is as follows:

- (1) Aid for 1/1/77 through 6/30/77 = \$996  
(6 months x \$166)
- (2) Aid for 7/1/77 through 5/31/78 = \$1,925  
(11 months x \$175)
- (3) Aid for 1/1/79 through 6/30/79 = \$1,050  
(6 months x \$175)
- (4) Aid for 7/1/79 through 6/30/80 = \$2,412  
(12 months x \$201)
- (5) Aid for 7/1/80 through 12/31/80 = \$1,392  
(6 months x \$232)
- (6) Basic grant for claim period = \$7,775  
((1)+(2)+(3)+(4)+(5))

**H**  
**A**  
**N**  
**D**  
**B**  
**O**  
**K**

**.52 Calculate the amount of net nonexempt income of the Assistance Unit.**

.521 For income received from January 27, 1975 through November 30, 1981, calculate net nonexempt income as follows:

- (a) Determine the amount of gross earnings received in the claimant's eligible claim period occurring in this time period. For self-employed individuals, determine the total profit in accordance with MPP Section 44-113.212.
- (b) Compute the number of months which the earnings covered.
- (c) Multiply the number of months determined in (b) by \$30.
- (d) Subtract the amount derived in (c) above from the gross earnings.
- (e) Subtract from the remainder determined in (d) one-third of the remainder.
- (f) Subtract from the remainder determined in (e) the mandatory deductions and work-related expenses which the claimant is entitled to receive. Mandatory deductions and work-related expenses shall be disallowed when the information or proof provided on the claim form is insufficient to establish the deduction as an allowable expense.
- (1) The allowable mandatory deductions are: local, state, and federal income tax; social security and compulsory retirement; unemployment and disability insurance contributions.
- (2) The allowable work-related expenses are: child care expenses, and work-related costs incurred or paid by the claimant.
- (A) Types of allowable work-related costs include, but are not limited to: transportation costs, amount for gas; tires; oil; car payments; car insurance; license and registration fees; mechanical repairs; repairs or replacement, if directly related to safety; and actual cost for riding with another person(s) and other work-

related costs not supplied or reimbursed by the employer including, but not limited to, tools; uniforms; and special equipment necessary for employment.

- (3) Proof supporting the mandatory deductions and work-related expenses includes those specified in MPP Section 44-113 in effect during the period for which retroactive aid is being claimed. If the verification is not reasonably available the claimant shall provide the reason(s) on the claim form. Acceptable reasons for unavailability are contained in 444(a) above.
- (q) Add to the amount determined in (f), all unearned income received by the Assistance Unit, and any aid payments including but not limited to General Relief received during the eligible claim period.
- (h) Subtract from the total determined in (q) any mandatory child support payments claimed.
- (i) The amount determined in (h) is the net nonexempt income.

Example: The claimant reported income during his/her eligible retroactive period from January 1977 through May 1978 and from January 1979 through December 1980. The calculation of the net nonexempt income is as follows:

- (1) Gross earnings received: \$6,900
- (2) Number of months which the earnings covered: 41
- (3) 41 months x \$30 = \$1,230
- (4) \$6,900 - \$1,230 = \$5,670
- (5) \$5,670 - \$1,890 (\$5,670 ÷ 3) = \$3,780
- (6) \$3,780 - \$780 (mandatory deduction/work-related expenses) = \$3,000

H  
A  
N  
D  
B  
O  
O  
K

(7) \$3,000 + \$210 (unearned income received)  
= \$3,210

- 522 For the period from December 1, 1981 through November 30, 1983, calculate net nonexempt income for the income received in the claimant's eligible claim period within this time period in accordance with MPP Section 44-100 except that the calculation shall be for the entire period claimed instead of a month. The \$30 and 1/3 disregard shall only be given for the appropriate number of months in accordance with MPP Section 44-111.23.
- 523 Combine the amounts calculated in •521 and •522 to determine the total net nonexempt income of the Assistance Unit.
- 53 Calculate the amount of retroactive payment as follows:
- 531 From the amount of basic grant determined in •51 above, subtract the amount of net nonexempt income determined in accordance with •52 above. The remainder is the amount of retroactive payment.

Example: Basic Grant Determined in •51	:	\$ 7,775
Less Net Nonexempt Income		
Determined in •52	:	-3,210
Amount of Retroactive Payment	:	\$ 4,565

#### •6 Delivery of the Retroactive Payment

- 61 The payment shall be delivered in accordance with MPP Section 44-305.26.
- 62 The retroactive payment in •531 above shall be used to offset any collectable outstanding overpayment in accordance with MPP Section 44-351.3. Any amount in excess of the overpayment shall be paid to the claimant.
- 63 The retroactive payment received by the claimant shall not be considered income or property for AFDC in the month of receipt or in the following month in accordance with MPP Section 42-213.2(h).
- 64 Concurrent with the retroactive payment shall be a Notice of Action explaining to the claimant how the retroactive

payment was computed and his/her right to request a state hearing.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Los Angeles Superior Court Order Numbers 000476 and 000548, filed April 20, 1981, Zapata v. Woods (137 Cal. APP. 3d 858), 42 USC 602(a)(24).

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILE

JAN 13 1984

OFFICE OF  
ADMINISTRATIVE LAW  
*(Appropriate for filing)*

JAN 26 1984

Office of ENVIRONMENTAL LAW

## AGENCY CONTACT PERSON AND POSITION

Maggie Dunaway, Regulations Analyst

TELEPHONE  
445-1870

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED 10-010, 30-001, 30-002, 30-004, 30-102, 30-132, 30-134, 30-154,  
Title: 22, 30-182, 30-192, 30-198, 30-262, 30-276, 30-610, 30-376.131(e)

MPP SECTIONS ADOPTED

SECTIONS REPEALED

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

## Other Regulatory Actions:

 Procedural and Organizational  
Change Editorial Correction Authority and Reference  
Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES. State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.  
(Attach Approval)     (Attach Approval)     (Include FPPC Approval Stamp)     Department of Finance  
(Attach STD. Form 399)7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF ADOPTION OF REGULATION(S)

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of State.)FILED  
In the office of the Secretary of State  
of the State of CaliforniaJAN 26 1984  
At 3:57 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Margaret Henshaw*  
Deputy Secretary of State

LEAVE BLANK

MAKE THE FOLLOWING EDITORIAL CORRECTIONS TO DIVISIONS 10 AND 30:

AMEND THE SECOND SENTENCE OF SECTION 10-010(h) TO READ:

- (h) "Service program" means...Service programs are directed at the goals ~~set forth~~  
specified in Section 30-001.1...

AMEND THE FIRST SENTENCE OF SECTION 10-010(k) TO READ:

- (k) "Social services staff" means ~~any~~ those public employees responsible, directly or indirectly, for the delivery or authorization for delivery of social services, and whose salaries or wages are funded in whole...

AMEND SECTION 10-010(l) TO READ:

- (l) "Staff activity" means a clearly delineated activity, or group of closely inter-related activities, which is performed by social service staff as part of a service program; which is performed in direct interaction with a recipient and/or his/her representative(s); and which is defined as a staff activity in Section 30-002~~(ee)~~.

AMEND SECTION 30-001.11<sup>4</sup> TO READ:

- .114 Goal No. 4: Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less-intensive care.

AMEND SECTION 30-002(b) TO READ:

(b) "Adult" means ~~any individual~~ a person 18 years of age or older.

AMEND SECTION 30-002(x) TO READ:

(x) "Recipient" means a child or adult receiving social services, including an applicant for such services when clearly implied by the context of the regulations.

AMEND SECTION 30-002(x)(2) TO READ:

(2) "Recipient of AFDC" means a dependent child, parent of the child, needy caretaker relative of the child, or spouse of the parent whose needs are met in whole or in part by a cash money payment under the state AFDC program...

AMEND SECTION 30-002(z)(5) TO READ:

(5) "Initial intake" means investigating the circumstances and facts regarding a referral for emergency response services to determine the potential for or existence of any condition(s) which places children at risk and in need of services;...

AMEND SECTION 30-002(z)(6) TO READ:

(6) "Out-of-home respite care" means the provision of prearranged child care in residential settings other than the child's own home...

AMEND SECTION 30-002(z)(10) TO READ:

- (10) "Temporary in-home caretaker" means a person who provides temporary care to a child in ~~his/her~~ the child's own home in lieu of out-of-home placement...

AMEND THE SECOND SENTENCE OF SECTION 30-002(bb) TO READ:

- (bb) "Service program" means...Service programs are directed at the goals ~~set forth~~ specified in Section 30-001.1.

AMEND SECTION 30-002(cc) TO READ:

- (cc) "Social services" or "services" means the composite of service~~s~~ programs funded under Titles IV-B,...

AMEND SECTION 30-002(dd) TO READ:

- (dd) "Social services staff" means ~~any~~ those public employees responsible, directly or indirectly, for the delivery of social services,...

AMEND SECTION 30-002(ee) TO READ:

- (ee) "Staff activity" means a clearly delineated activity, or group of closely inter-related activities, which is performed by social service~~s~~ staff as part of...

AMEND SECTION 30-002(ee)(10) TO READ:

(10) "Selection and placement" means activity to locate an out-of-home ~~placement~~ care facility for a recipient,...

AMEND SECTION 30-002(gg)(2) TO READ:

(2) "Recruitment" means activity to find and develop resources which are needed necessary but do not exist, or which exist but must be expanded.

AMEND SECTION 30-102.1 TO READ:

.1 "Emergency response program" means that program described in Welfare and Institutions Code Section 16501.1(a).

AMEND SECTION 30-132.2 TO READ:

.2 Emergency response staff shall immediately review all such requests or referrals...

AMEND SECTION 30-134.41 TO READ:

.41 The record retention requirements specified in Welfare and Institutions Code Section 10851 shall be met with regard to such referral documentation.

AMEND SECTION 30-154.11 TO READ:

.11 If removal is voluntary, such authority shall be a written ~~parental~~ parent/guardian consent.

AMEND SECTION 30-154.31 TO READ:

.31 Such determination shall be made within the first 48 hours, excluding nonjudicial days, of temporary placement, excluding nonjudicial days.

AMEND SECTION 30-182.11 TO READ:

.11 When emergency response services potentially may be funded through the Emergency Assistance--Abused, Neglected, or Exploited Children (EA-ANEC) ~~program~~,...

AMEND SECTION 30-192.442(a) TO READ:

(a) Services which improve ~~parental~~ parent/guardian effectiveness, and which reduce the need for out-of-home care.

AMEND SECTION 30-198.131(a)(2) TO READ:

(2) The child's parent(s)/guardian(s), or person(s) serving in that role.

AMEND SECTION 30-198.155 TO READ:

.155 Any written ~~parental~~ parent/guardian consents required by the regulations in this chapter.

AMEND SECTION 30-262.4 TO READ:

.4 The social worker shall document in the case record the reason(s) for the recommendation to transfer the case. ~~shall be documented in the case~~

AMEND SECTION 30-276.131(a)(2) TO READ:

(2) The child's parent(s)/guardian(s), or person(s) serving in that role.

AMEND SECTIONS 30-276.151(a) THROUGH (c) TO READ:

(a) A description of the degree of ~~parental~~ parent/guardian compliance with the written service~~s~~ plan, including the following:

(1) ~~parental~~ Parent/guardian progress in working toward achievement of each family maintenance plan goal.

(2) ~~parental~~ Parent/guardian cooperation in keeping appointments.

(b) An evaluation of service plan adequacy and continued appropriateness.

(c) An evaluation of the need for an alternative plan to family maintenance, including documentation of joint assessment with adoption~~s~~ staff, if applicable.

AMEND SECTION 30-276.166 TO READ:

.166 Any written ~~parental~~ parent/guardian consents required by the regulations in this chapter.

AMEND SECTION 30-610.1 TO READ:

.1 ~~A person~~ An adult shall be eligible to receive out-of-home care ~~services~~ for adults if he/she is one of the following:

AMEND SECTION 30-610.2 TO READ:

.2 Any eligible ~~person~~ adult who requests services, or for whom a referral is received for out-of-home care ~~services~~ for adults, shall be considered to be in need...

RENUMBER SECTIONS 30-004.11(a) THROUGH (e) AS SECTIONS 30-004.111 THROUGH .115

AMEND THE CROSS-REFERENCE IN SECTION 30-376.131(e) TO READ:

- (e) For group home placements, the additional information specified in Sections 30-336.51 through .512(g).

ORD 683-40

83-1228-7

RECEIVED FOR FILING

DEC 20 1983 PM '83

ADMINISTRATIVE LAW  
DEPARTMENT OF STATE

JAN 30 1984

Office of Administrative Law  
LEAVE BLANKFOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

State Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

**FILED**  
 In the office of the Secretary of State  
 of the State of California

 JAN 30 1984  
 At 4:37 o'clock P.M.  
 MARCH FONG EU, Secretary of State  
 By Penny Little  
 Deputy Secretary of State  
 LEAVE BLANK

## AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

TELEPHONE

5-0313/3-0883

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

Title: \_\_\_\_\_ 63-036, 63-300 and 63-403

## SECTIONS ADOPTED

## SECTIONS REPEALED

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

Other Regulatory Actions:

 Procedural and Organizational Change Editorial Correction Authority and Reference Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

<input type="checkbox"/> State Fire Marshal (Attach Approval)	<input type="checkbox"/> Building Standards Comm. (Attach Approval)	<input type="checkbox"/> Fair Political Practices Comm. (Include FPPC Approval Stamp)	<input type="checkbox"/> Department of Finance (Attach STD. Form 399)
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7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

July 29, 1983

b. DATE OF ADOPTION OF REGULATION(S)

July 18, 1983

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

October 18, 1983

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of State.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on July 18, 1983, and which became effective on September 1, 1983.

Manual of Policy and Procedures, Division 63, Chapters 036, 102, 300, 403, and 503, Sections:

<u>Amended</u>	<u>Adopted</u>
63-403.321 and •321(a)	63-036 63-102(zz) and (aaa) 63-300.518 63-403.18 63-403.33 and •331-•337 63-503.53, •531, •532, and •533

These regulations were presented at public hearing on September 12, 1983. As a result of the public hearing the following sections have been changed.

<u>Amended</u>
63-036
63-300.518
63-403.18
63-403.321
63-403.321(a)

  
\_\_\_\_\_  
LINDA S. McMAHON  
Director

12-27-83  
Date

FINAL STATEMENT OF REASONS ...

a) General Purpose of the Regulations

To implement the 1981 Food Stamp Act Amendments which require that a portion of the income and resources of an alien's sponsor and the sponsor's spouse be used in determining the eligibility and/or allotment level of a sponsored alien.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

Section 63-036: Federal regulations, 7 CFR 272.1(g)(54) requires that an implementation schedule for these revisions be established. This section sets forth the implementation schedule required.

Section 63-102: These regulations are necessary to make "sponsored aliens" and "sponsor" definitions consistent with federal regulations defined in 7 CFR 273.11(h)(1).

Section 63-300: Federal regulations 7 CFR 273.11(h)(5)(ii) require that certain information appearing on the Food Stamp application be verified. This section is amended to include a provision for the sponsored alien to provide the CWD with income and resources information of the sponsor and the sponsor's spouse, if applicable, at the time of the alien's application for food stamp assistance.

Sections 63-403.1 and .3: These sections are amended to comply with federal regulation, 7 CFR 273.11(h)(1), (4), and (5). 7 CFR 273.11(h)(4) and (5) state that the sponsored alien is responsible for providing specific information on the sponsor and the sponsor's spouse (if applicable), and this information must be verified. 7 CFR 273.1(h)(1) provides a definition for sponsored alien.

Section 63-403.18: This section may appear to duplicate language, however the federal regulations have a definition of a "sponsored alien" which is included in Section 63-102.

c) Identification of Documents Upon Which Department is Relying

1) 7 CFR Parts 272 and 273

d) Testimony Summary and Response

The public hearing for these regulations was held on September 12, 1983. There was no oral testimony received at the public hearing. The Department received two written comments, one from United States Department of Agriculture's Family and Nutrition Service (FNS) and one from Los Angeles County. The following is a narrative of the comments received and the Department's responses to those comments.

#### General Comments

Comment: FNS noted the omission of provisions regarding overissuances due to incorrect sponsor information.

Response: The decision was made to place these provisions in another filing, ORD #783-47 (Food Stamp Disqualification Penalties and Recovery of Overpayment), which deals with overissuances due to incorrect sponsor information and will be filed at a later date.

#### Section 63-036

Comment: Los Angeles County protested the implementation schedule due to the lack of adequate time to institute changes which require the development of a supplemental information form to be translated, printed, and distributed by September 1, 1983. To adequately train staff, Los Angeles County estimates it needs at least 60 days lead time.

Response: SDSS was formally warned by FNS to implement the provisions of this regulation package as soon as possible. Therefore, the Department was compelled to file these regulations on an emergency basis, and was unable to provide a 60 day lead time. The Department also recognized the implementation schedule could create a problem for the CWDs in terms of developing, printing, and distributing the necessary forms by the effective date. For that reason, the CWDs were informed that they should use the AFDC CA 22 form until a new food stamp form is developed (early 1984). A technical change was made in this section to include the U.S. Code number for reference.

#### Section 63-300.518

This section now contains an "s" after the word Section in the second reference to correctly indicate more than one section being referenced.

#### Section 63-403.18

Comment: Los Angeles County suggested deleting Section 63-403.18 because this language is superfluous since Section 63-403.12 already covers aliens lawfully admitted for permanent residence. Instead, L.A. County recommended adding the statement "by relying upon an affidavit of support..." to Section 63-403.12 to identify the sponsored alien.

Response: The Department believes that Section 63-403.18 is in accord with the requirements of federal regulations and should not be deleted.

A technical change was made in the last line of this section by correcting "Immigrant" to "Immigration" in the reference to the Immigration and Nationality Act.

#### Section 63-403.321 and .321(a)

Both of these sections contain technical changes. The reference to the "county welfare department" has been modified to the "CWD" in Section 63-403.321. The word "and" and superfluous numbering has been removed from Section 63-403.321(a).

#### Section 63-503.532(b)(2)

The sentence structure was modified to correctly indicate the cross reference to Section 63-501.

#### Section 63-503.533

Comment: Los Angeles County questioned whether verification of information of the alien and his/her sponsor must be verified prior to certification, and whether this action takes precedence over postponing verification under expedited services.

Response: Verification requirements for expedited services are the same for sponsored aliens as any other applicant household. Since the federal regulations did not include any changes to these provisions regarding expedited service, the Department disagrees with the need to expand these proposed regulations to cover applicability of the expedited service regulations to sponsored aliens. No change was made to this section of the regulations.

#### e) Local Mandate Statement

These regulations do constitute a mandate to local agencies but not to school districts. There are no state mandated

local costs in this order that require reimbursement under Section 2231 of the Revenue and Taxation Code.

f) Statement of Potential Cost Impact on Public Agencies, Private Persons or Entities Directly Affected

The Department of Social Services finds that the adoption of this regulation will result in no cost impact on public agencies, private persons or businesses directly affected.

g) Small Business Impact Statement

The Department of Social Services finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses.

Amend Section 63-036 Introductory Paragraph to read:

**63-036 IMPLEMENTATION OF SPONSORED ALIENS PROVISIONS**

**63-036**

Sections 63-102, 63-300, and 63-403, as amended and Section 63-503.53 as adopted herein, pursuant to Public Law 97-98 (7 USC Section 2015(i)), shall become effective the first of the month following 30 days after fitting with the Secretary of State by the EWB on September 1, 1983 and shall be implemented as follows:

- 1 First of the month following 30 days after filing of these regulations, the revised provisions shall apply to all new applications for households with sponsored aliens for whom the sponsor signed an affidavit of support or similar agreement on or after February 1, 1983.
- 2 Currently certified households for which the sponsor signed an affidavit of support or similar agreement on or after February 1, 1983, shall be converted to the revised provisions at the time of recertification.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18901 and 7 CFR Section 272.1(g)(54).

**Amend Section 63-300.518 to read:**

**63-300 APPLICATION PROCESS (Continued)**

**63-300**

**.5 Verification (Continued)**

**.51 Mandatory Verification (Continued)**

**.518 Sponsored Alien**

**For sponsored aliens, the CWD shall verify the factors of eligibility specified in Section 63-503.53. The sponsored alien must provide all verification required by Sections 63-403.32 and .33.**

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.11(h)(1) and 273.11(h)(5)(2).

Amend Section 63-403.18:

63-403 Citizenship and Alien Status (Continued)

63-403

.1 Citizens' and Eligible Aliens (Continued)

.18 An alien who was lawfully admitted for permanent residence into the United States pursuant to as an immigrant, as defined in the Immigration and Nationality Act. Section 101(a)(15) and Section 101(a)(20), by relying upon an affidavit of support in order to overcome Section 212(a)(15) of the Immigration and Nationality Act.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.11(h)(1).

Amend Sections 63-403.321, and .321(a) to read:

**63-403 CITIZENSHIP AND ALIEN STATUS (Continued)**

**63-403**

**.3 Verification (Continued)**

**.32 Verification of Alien Status**

**.321** Based on the application, the CWD county welfare department shall determine if members identified as aliens are eligible aliens, as defined in Sections 63-403.12 through 63-403.18, by requiring that the household present verification for each alien member. Under no conditions shall an alien receive food stamp benefits pending receipt of verification of eligible alien status by the CWD.

- a. Aliens in the categories specified in Sections 63-403.12, and 403.13 and 63-403.18 shall present an Immigration and Naturalization Service (INS) Form I-151 or I-551 -- "Alien Registration Receipt Card"; or the "Re-entry Permit," a passport booklet for lawful permanent resident aliens.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.11(h)(1) and (h)(5).

Amend Section 63-503.53 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY  
AND BENEFIT LEVELS (Continued)

63-503

.5 Households with Special Circumstances (Continued)

.53 Household with Sponsored Aliens

Portions of the gross income and the resources of a sponsor and the sponsor's spouse (if living with the sponsor) shall be deemed to be the unearned income and resources of a sponsored alien for three years following the alien's admission for permanent residence to the United States. The spouse's income and resources will be counted even if the sponsor and spouse were married after the signing of the agreement.

The amount of income and resources deemed to be that of the sponsored alien in accordance with Section 63-503.532 shall be considered in determining the eligibility and/or benefit level of the household of which the alien is a member.

.531 The following aliens are exempt from provisions for sponsored aliens:

- (a) An alien who is participating in the Food Stamp Program as a member of his or her sponsor's household;
- (b) An alien who is sponsored by an organization or group as opposed to an individual;
- (c) An alien who is not required to have a sponsor under the Immigration and Nationality Act, such as, but not limited to, a refugee, a parolee, one granted asylum, and/or a Cuban or Haitian entrant.

.532 Eligibility and Benefit Level

(a) Income

- (1) Unearned income of the household containing sponsored aliens shall include the following: The amount of the monthly income of an alien's sponsor and the

sponsor's spouse (if living with the sponsor) that has been deemed available to the alien, unless the sponsored alien is otherwise exempt from this provision in accordance with Section 63-503.531.

- (2) Unearned income deemed available to the alien is determined as follows:
- (A) Take the total monthly gross income of the sponsor and the sponsor's spouse (if living with the sponsor) at the time the household containing the sponsored alien member applies or is recertified for participation in the Food Stamp Program.
- (i) Deduct an 18 percent earned income amount for that portion of income determined as earned income of the sponsor and the sponsor's spouse, and
- (ii) Deduct the food stamp monthly gross income eligibility limit for a household equal in size to the sponsor's household, i.e. the sponsor, the sponsor's spouse and any other person who is claimed by the sponsor, or the sponsor's spouse as dependent for federal income tax purposes.
- (B) If the alien has already reported gross income information on his/her sponsor, due to Aid to Families with Dependent Children's (AFDC) sponsored alien rules, that income amount may be used for Food Stamp Program deemming purposes. However, allowable deductions to be applied to the total gross income of the sponsor and the sponsor's spouse, prior to attributing an income amount to the alien, shall be limited to the 18 percent earned income amount and the Food Stamp Program gross monthly income amount stated above.

(3) Direct cash payment to the alien by the sponsor or the sponsor's spouse will not be considered as income to the alien unless the amount paid exceeds the amount of the sponsor's income deemed available to the alien. Only the amount paid that actually exceeds the deemed amount would be considered income to the alien.

(b) Resources

(1) "Resources for households containing sponsored aliens" shall also include that portion of the resources of an alien's sponsor and the sponsor's spouse (if living with the sponsor) which has been deemed to be those of the alien, unless the sponsored alien is otherwise exempt from this provision in accordance with Section 63-503.531.

(2) Resources of the sponsor and sponsor's spouse as determined by Section 63-501 deemed to be that of the alien shall be the total amount of their resources reduced by \$1,500. If the alien has already reported total resource information on his/her sponsor due to AFDC's sponsored alien rules, the resource amount calculated by AFDC as the amount to be attributed to the alien, may be used for Food Stamp Program deeming purposes.

(c) Treatment of Income and Resources of More Than One Sponsored Alien

If a sponsored alien can demonstrate to the CWD that his/her sponsor sponsors other aliens, then the income and resources deemed under this section shall be divided by the number of such aliens that apply for, or are participating in the Food Stamp Program.

(d) Changing Sponsors

If the alien changes sponsors during the certification period, then deemed income/resources would shall be recalculated based on the required information of the new sponsor. See Section 63-403.33.

**-533 Awaiting Verification**

If information necessary to carry out the provisions of this section is not received or verified on a timely basis, the sponsored alien and his/her spouse shall be ineligible to participate until such time as all necessary facts are obtained. In determining the eligibility and/or benefit level of the remaining household members, the income and resources of the ineligible alien and his/her spouse (excluding the attributed income and resources of the alien's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member as set forth in Section 63-503.54, and considered available. If the information or verification is subsequently received, the CWD shall act on the information as a reported change in household membership in accordance with the timeliness standards in Section 63-505.2.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.8(c)(3), 273.9(b)(4), 273.11(h)(2), 273.11(h)(3), and 273.11(h)(6).

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 383-20c

840119-1

RECEIVED FOR FILING

JAN 19 3 02 PM '84

ADMIN ENDORSED LAW  
APPROVED FOR FILING

JAN 30 1984

Office of Administrative Law

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## AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

## TELEPHONE

5-0313/3-0883

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

Title: \_\_\_\_\_ 63-504.264, 63-504.322, 63-504.324, 63-504.34 and 63-504.355

## SECTIONS ADOPTED

63-039

## SECTIONS REPEALED

63-503.232(d)(2)

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

Other Regulatory Actions:

 Procedural and Organizational Change Editorial Correction Authority and Reference  
Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES. State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)     (Attach Approval)     (Include FPPC Approval Stamp)     (Attach STD. Form 399)7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

NA

b. DATE OF ADOPTION OF REGULATION(S)

NA

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346 B(c))

NA

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_c.  Effective on February 1, 1984 (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of State.)FILED  
In the office of the Secretary of State  
of the State of CaliforniaJAN 30 1984  
At 4:40 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Venice Little  
Deputy Secretary of State

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Amend Section 63-503.232:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY  
AND BENEFIT LEVELS (Continued)

63-503

•2 Determining Resources, Income and Deductions (Continued)

•23 Households Subject to Retrospective Budgeting After the Beginning Months (Continued)

•232 Retrospective Budgeting (Continued)

(d) Discontinued Income

Any income that a household received in a beginning month from a source that no longer provides income to the household in the corresponding retrospectively budget month shall be disregarded when computing benefits for the issuance month, except as specified in Sections 63-503.232(d)(1) and f2f. The CWD shall not disregard income which has been discontinued for the following reasons:

(1) Income has been discontinued due to participation in a strike or quitting a job unless good cause has been determined in accordance with Section 63-408.3.

f2f A household's income from any source is being used to recover prior overpayments in assistance programs such as Aid to Families with Dependent Children (AFDC) and General Assistance (GA).

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.9(b)(4).

Repeal Section 63-503.232(d)(2):

63-503 DETERMINING HOUSEHOLD ELIGIBILITY  
AND BENEFIT LEVELS (Continued)

63-503

•2 Determining Resources, Income and Deductions (Continued)

•23 Households Subject to Retrospective Budgeting After the Beginning Months (Continued)

•232 Retrospective Budgeting (Continued)

(d) Discontinued Income (Continued)

{2} A household's income from any source is being used to recover prior overpayments in assistance programs such as Aid to Families with Dependent Children (AFDC) and General Assistance (GA).

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.9(b)(4).

Amend Section 63-504.264 as shown:

**63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)**

**63-504**

**•2 Notices of Action (Continued)**

**•26 Notice of Change (DFA 377.4) (Continued)**

**•264 Notice of Proposed Change in Benefits (DFA 377.4)**

The CWD shall provide a notice of proposed change in benefits to a monthly reporting household that fails to submit verification/information of a deduction with a CA 7 that is otherwise complete as specified in Section 63-504.32, or submits a CA 7 that contains questionable information as defined in Section 63-300.53. The CWD shall send the DFA 377.4 to the household no later than 10 days before the end of the report month and give the household until the extended filing date to provide the missing verification/information.

**Authority:** Welfare and Institutions Code Sections 10553 and 10554.

**Reference:** Welfare and Institutions Code Section 18901 and Memorandum dated October 24, 1983 to Linda S. McMahon, Director, SDSS from Carol M. Fahey, Director FNS (Western Region).

Amend Sections 63-504.322, .324, .34, and .355 as shown:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.32 Complete CA 7 (Continued)

.322 The CA 7 provides the CWD with address (location) information sufficient to locate the household; however, households which do not have a fixed address shall not have their CA 7s rendered incomplete solely for this reason;

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.3.

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.32 Complete CA 7 (Continued)

.324 All questions and items pertaining to food stamp eligibility and benefit level are fully answered and provide the CWD with the information to correctly determine eligibility and benefit level.

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.34 CWD Action on a Complete CA 7 Requiring Additional Verification/Information

The CWD shall require households to submit with the CA 7, verification/information of the items listed in Section 63-504.341. If the household submits the CA 7 by the date the CWD mails the NA 960, but fails to provide the required verification/information with the CA 7, the CWD shall notify the household (DFA 377.4) of the need to submit the missing verification/information by the extended filing date. The CWD shall not delay the benefits of a household submitting a complete CA 7 that is missing verification/information of a deduction. If the household fails to provide the missing verification/information, other than income verification/information, by the extended filing date, the CWD shall not consider the CA 7 incomplete, but shall instead disallow any deductions for which the household has not provided verification/information, except those items specified in Sections 63-504.341(g) and (h), which shall be handled in accordance with Section 63-504.342.

**Authority:** Welfare and Institutions Code Sections 10553 and 10554.

**Reference:** Welfare and Institutions Code Section 18401 and Memorandum dated October 24, 1983 to Linda S. McMahon, Director, SOSS from Carol M. Fahey, Director FNS (Western Region).

**63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)**

**63-504**

**.3 Monthly Reporting (Continued)**

**.35 Action on Reported Information (Continued)**

**.355** The household shall provide, as required by the CWD, information necessary to complete the determinations in Sections 63-504.353 and .354. If the household refuses to provide such information, it shall be terminated in accordance with Section 63-505.1. If the household fails to report the necessary information on the EA 7 regarding the new members it shall be terminated in accordance with Section 63-504.361(b). The household shall be terminated in accordance with Section 63-504.361(b) if it fails to

provide the necessary information regarding the new member on the CA 7 submitted after the CA 7 on which the household was required to report the addition of the new member as provided in Section 63-505.31.

**Authority:**

Welfare and Institutions Code Sections 10553 and 18904.

**Reference:**

Welfare and Institutions Code Sections 18901 and 18904.

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 483-31

8301113

FILED

In the office of the Secretary of State  
of the State of California

FEB 15 1984

At 4:06 o'clock P.M.

MARCH FONG EU, Secretary of State

By Maryjane Hershberger  
Deputy Secretary of State

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RECEIVED FOR FILING  
JAN 11 3 00 PM '84

ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING

FEB 15 1984

Office of Administrative Law  
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY: Janda S. McNaughton

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

AGENCY CONTACT PERSON AND POSITION

Dion Webb, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: \_\_\_\_\_ 63-102, 406

SECTIONS ADOPTED

63-032

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational  
Change

Editorial Correction

Authority and Reference  
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing \_\_\_\_\_

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)     (Attach Approval)     (Include FPPC Approval Stamp)     (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

July 1, 1983

b. DATE OF ADOPTION OF REGULATION(S)

January 5, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

September 16, 1983

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_

c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

Adopt new Section 63-032 to read:

63-032 IMPLEMENTATION OF STUDENT ELIGIBILITY PROVISIONS    63-032

Beginning April 1, 1984 counties shall implement the required program changes for all new applications (see Section 63-406). The current case load shall be converted to the required program changes at the time of recertification or anytime a case file is reviewed prior to recertification. These regulations implement changes to Sections 63-102gg, 111, and mmm and 63-406.1, .213, .214, .215, .221, .23, .231, .232, .233, and .3.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10553, 18902, and 18904.

Amend Section 63-102.gg.1; adopt Sections 63-102111. and mmm. to read:

63-102 DEFINITIONS (Continued)

63-102

gg."Retail food store" means:

1. An establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than 50 percent for food items for home preparation and consumption. See Section 63-102(111.) for house-to-house trade route definition.

63-102 DEFINITIONS (Continued)

63-102

111. "House-to-house trade routes" means any retail food business operated from a truck, bus, pushcart, or other vehicle which can move easily from place to place.

mmm. "Trafficking" means the buying or selling of coupons or ATP cards for cash.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 7 CFR 271.2.

Amend Sections 63-406.1, .2, .211, .212, .221; repeal Sections 63-406.213, .214, .215, and .23 through 406.25; adopt new Sections 63-406.213, .214, .215, .23, and 406.3.

## 63-406. STUDENTS

63-406

- 1 **Applicability.** Any person who is ~~at~~ age eighteen through fifty-nine; ~~is~~ physically and mentally fit; and ~~is~~ enrolled at least half time, as defined by the institution, in an institution of higher education (as defined in Section 63-102(o)), shall be ineligible to participate in the Food Stamp Program unless that person complies with the eligibility requirements of Section 63-406.2. This section does Student eligibility requirements shall not apply to persons age 17 or under, persons age 60 or over, or persons physically or mentally disabled, persons attending high school, persons enrolled exclusively in noncredit college courses, such as but not limited to, English as a Second Language (ESL) and General Education Diploma (GED) courses, persons participating in on-the-job training programs, persons ~~not attending~~ enrolled in an institution of higher education ~~at least less than~~ half time, or to persons enrolled full time in schools and training programs which are not institutions of higher education.

### •2 Eligibility Requirements.

- 21 In order to be eligible to participate in the Food Stamp Program, any student (as defined in Section 63-406.1) shall meet at least one of the following criteria on the date of application:

- 211 Be employed for a minimum of twenty hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receive gross weekly earnings at least equal to the federal minimum wage multiplied by 20 hours; (See Sections 63-408.111 and 63-502.112).
- 212 Be participating in a federally financed work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965 as amended) during the regular school year, as defined by the institution;
- 213 Be providing over half the total support as discussed in 63-406-242a for at least one other person in the food stamp household.

- \*214 Be the spouse of another household member who is providing over half of the support of one or more dependent household members;
- \*215 Be enrolled in an institution of higher education as a result of participation in the Work Incentive Program under Title IV of the Social Security Act as amended (42 U.S.C. Section 602);
- .213 Be exerting parental control over a dependent household member under the age of six. (See Section 63-102qq for definition of parental control.)
- .214 Be exerting parental control over a dependent household member who has reached age six but is under age 12 and the CWD has determined on a case-by-case basis that adequate child care services is not available (See Section 63-406.23).
- .215 Be a recipient of AFDC.
- .22 The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Once a student enrolls in an institution of higher education, such enrollment and work study participation (if the student is engaged in work study) shall be deemed to continue through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled or drops out.
- .221 Student eligibility criteria will shall be applied on the date of application to all applicants who are students to those applicants who are enrolled in an institution of higher education at the time of application as defined in Section 63-406.1. The same student method of determination eligibility criteria shall also be applied to a on the date of application to all applicants who are noncontinuing students in the final month of student status.
- \*23 Student eligibility as a result of participation in the Work Incentive Program under Title IV of the Social Security Act shall be deemed to continue as long as the student maintains continuous enrollment as specified in \*22 above.
- .23 In determining whether or not adequate child care services is available as required in Section 63-406.214, the following factors shall be considered:

- 231 Accessibility of the child care facility to the child's home and school,
- 232 Convenience for the student household member and suitability of the hours of the child care with respect to the student household's member's school schedule, and
- 233 Appropriateness of the child care services to the age and special needs of the child.
- \*24 In determining whether a student household member or the student's spouse furnishes more than half of the support of another household member the following general principles apply:
  - \*241 If the household member being provided support is fit a spouse or fit a minor child under the parental control of the student or the student's spouse as defined in Section 63-102r or fit a relative of the student or the student's spouse (such as a parent or grandparent) and the relative has insufficient income to cover over half of his/her own total support for the calendar year, the student or student's spouse shall be considered as providing the total support for that individual regardless of the income sources from which the provider derives the support.
  - \*242 If the household member being provided support is a person other than those listed in the above categories (such as unrelated adults, minor children not under the parental control of the student or the student's spouse) or related adults who have their own source of income, the EHB shall make a case-by-case determination as to whether or not the student or the student's spouse is providing the individual(s) with half of their support during the certification period.
- at Support is the sum of the fair rental value of lodging furnished all items of expenses paid or incurred directly by or for the dependent household member such as clothing, dental and medical expenses, expenditure for providing shelter, education, recreation, transportation and similar necessities and a proportionate share of expenses that cannot be attributed directly to a particular individual such as cost of food for the entire household.

- b- In order for the student to qualify under Sections 63-406.243 or 63-406.244 the student or student's spouse must provide for over half of the individual's support needs regardless of the source of the funds or in-kind contributions used.
- \*243 The individual(s) being provided support must be a member(s) of the same household as the student.
- \*25 The income and resources of ineligible student living with a household shall not be considered in determining eligibility or level of benefits of the household as specified in 63-503.55.

### •3 Ineligible Students

Any student as defined in Section 63-406.1 who does not meet the eligibility criteria of Section 63-406.2 shall be considered a nonhousehold member and shall be ineligible to participate in the Program. The income and resources of an ineligible student shall be treated in accordance with Section 63-503.45.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.5(b).

**FILED**

In the office of the Secretary of State  
of the State of California

NOTICE OF REPEAL

GOVERNMENT CODE SECTION 11346.1

FEB 1 6 1984

At 3:57 o'clock P.M.

MARCH FONG EU, Secretary of State

By Mayjorie Neuhenger  
Deputy Secretary of State

Pursuant to the provisions of Government Code Section 11346.1(f), the Department of Social Services is hereby notified that the emergency amendments to the Department's Manual of Policies and Procedures Sections 40-129.432, 44-317.1 and 44-317.2 which became effective on October 1, 1983, were repealed by operation of law on January 31, 1984. Sections 40-129.432, 44-317.1 and 44-317.2 as they existed immediately prior to the emergency amendments referenced herein, were therefore, reinstated by operation of law on January 31, 1984, and shall be reprinted in the California Administrative Code in place of the emergency amendments.

This notice is given and this action is taken pursuant to the provisions of Government Code Section 11346.1(f) because the Department failed, within 120 days of the effective date of the emergency amendments, to complete the regulation adoption process by formally adopting the emergency amendments in accordance with the provisions of the Administrative Procedure Act as required by Government Code Section 11346.1(e).

DATED: February 16, 1984.



LINDA STOCKDALE BREWER  
Director

ENDORSED  
*Approved for filing*

FEB 16 1984

ENDORSED FILED  
IN THE OFFICE OF  
FEB 16 3 57 PM 1984  
MARCH FONG EU  
SECRETARY OF STATE  
OF CALIFORNIA

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

REGULATORY ORDER FOR FILING

JAN 17 5 13 PM '84

APPROVED FOR FILING  
ADENDORSED  
APPROVED FOR FILING

FEB 17 1984

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

*Tina S. McPherson*

ORD #783-48

840117-5

FILED

In the office of the Secretary of State  
of the State of CaliforniaFEB 17 1984  
At 3:42 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Marguerite Hershberger*  
Deputy Secretary of State

LEAVE BLANK

## AGENCY CONTACT PERSON AND POSITION

Dion Webb, Regulations Analyst

TELEPHONE

445-0313

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

63-038

Title: \_\_\_\_\_

## SECTIONS ADOPTED

63-300.534

## SECTIONS REPEALED

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

## Other Regulatory Actions:

 Procedural and Organizational Change Editorial Correction Authority and Reference Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing September 19, 1983

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES. State Fire Marshal  
(Attach Approval) Building Standards Comm.  
(Attach Approval) Fair Political Practices Comm.  
(Include FPPC Approval Stamp) Department of Finance  
(Attach STD. Form 399)7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

September 2, 1983

## b. DATE OF ADOPTION OF REGULATION(S)

January 13, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

November 18, 1983

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of State.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on September 20, 1983, and which became effective on September 20, 1983.

Manual of Policy and Procedures, Division 63, Chapters 300 and 500, Sections:

Amended

63-038  
63-300.516(a)  
63-502.361  
63-502.363

These regulations with the exception of Section 63-300.516(a) were presented at public hearing on October 20, 1983. As a result of the public hearing the following sections have been changed.

Amended

63-038

Adopted

63-300.534

Section 63-300.516(a), as filed with the Secretary of State on September 20, 1983, is slightly different from that which was published for public comment. The language difference is not felt to be significant and this section is therefore being certified as having complied with Sections 11346.4 through 11346.8 of the Government Code.

  
\_\_\_\_\_  
LINDA S. MCMAHON  
Director

11/13/84  
\_\_\_\_\_  
Date

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Federal regulations allow the state the option of establishing a separate standard utility allowance (SUA) for individual heating and cooling expenses. The Department has elected to exercise this option and must therefore amend its existing regulations to conform with the new federal requirements.

These regulations are intended to remove, in multiple households, the requirement for equally dividing one SUA in favor of prorating the allowance. Also, to prevent unlimited switching from the allowance to actual cost of utilities.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 63-038 requires the implementation of these revisions.

This order is necessary to insure that County Welfare Departments have a reasonable period of time to implement the new regulations. Case reviews, made by the Department, assures program uniformity. The Department's use of the implementation order provide both state and county with a point in time when case errors and or county compliance can be cited.

Section 63-300.516(a) is being amended to require that counties verify the utility expenses paid by households claiming actual utility costs. This regulation is necessary to implement federal regulations found in 7 CFR 273.9(d)(6).

Section 63-300.534 is being adopted to prohibit the claiming of a utility deduction when shared utility expenses are in question. This regulation is necessary to implement federal regulations found in 7 CFR 273.9(d)(6).

Section 63-502.361 currently allows one SUA, to be divided equally, among individuals contributing to the utility costs of the residence. These regulations require proration of the SUA among households that live with and share utility expenses with other food stamp households, individuals, or both. The method for prorating the SUA is established in this section and allows the use of actual costs paid when an accurate

proration can not be made. This regulation is necessary to implement federal regulations found in 7 CFR 273.9(d)(6).

Section 63-502.363 currently allows recipients to switch from actual utility cost to an SUA or vise-versa during the certification period. These regulations will only allow a switch to occur once every 12 months. The Department has elected to use the annualized SUA for ease of administration and to allow the recipient the choice of using actual utility costs or an SUA. This regulation is necessary to implement federal regulations found in 7 CFR 273.9(d)(6).

c) Identification of Documents Upon Which Department Is Relying

1. 7 CFR 272.1(g) and 273.9(d)(6)
2. Welfare and Institutions Code Sections 10553, 18901, 18902, and 18904.

d) Testimony Summary and Response

These regulations were held for public review and comment on October 20, 1983. There was no oral testimony received but Butte County Department of Social Welfare, (BU CDSW) and the Federal Food and Nutrition Service (FNS) did submit a written comment which the Department has addressed below.

Section 63-300.516(a)

This section received no testimony and no changes are being made to it but the Department does want to point out that the regulation text reflects a minor language difference between what was published for public review and what was filed with the Secretary of State. The language filed with the Secretary of State read, "If the household lives with and shares utility expenses with others and wishes...." The words lives with and, and with others do not appear in the text made available to the public. This language is not felt to be significant but is significantly related and was included at the time of adoption for additional clarity. This section is therefore being certified as having complied with Sections 11346.4 through 11346.8 of the Government Code.

Section 63-300.534

This section was originally submitted as a part of the emergency filing (September 20, 1983). It was later rejected (September 29, 1983) as not having met the emergency criteria. The Department is adopting this section with the Certification

of Compliance as it has now met the regulations adoption requirements and can be included at this point of the process.

Section 63-502.361(a)

This section received no testimony and no changes are being made but the Department also wants to point out a change between the published text and that which was filed with the Secretary of State. In this case the published text contains an additional sentence that the Department felt was legally unsupportable and had it removed prior to adoption. The remaining language is the same as that which was filed with the Secretary of State. This section is therefore being certified without changes.

Section 63-502.361(a)(2)

Comment: BU CDSW stated that the wording in this section does not follow the wording in Section 63-502.361(a)(1), and the County recommends that the Department revise the wording in this section to read: "Identify separate food stamp household members."

Response: The intent of this section was to identify just the separate households not its members. In Section 63-502.361(a)(3) the Eligibility Worker will then determine the number of individual household members within the households identified in Section 63-502.361(a)(2). The Department believes the intent of this section is clear and that the suggested language can be found in Section 63-502.361(a)(3); no change will be made to this particular section of the regulations. However, please note that some language was inadvertently omitted in Section 63-502.361(a)(1) and will be amended in a subsequent regulation package to add and share expenses with.

Comment: FNS stated that the method delineated in this section to prorate the SUA is needlessly complex and likely to result in avoidable errors.

Response: The Department chose this methodology because it meets federal requirements and is less complex than other alternatives considered. Unfortunately, the federal requirements preclude implementing a proration methodology that is not error prone. Since FNS has taken no specific exception to the Department's methodology, no change has been made to this section.

e) Local Mandate Statement

These regulations do constitute a mandate to local agencies but not to any school district.

There are no state mandated local costs in this order that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no costs.

f) Statement of Potential Cost Impact on Public Agencies, Private Persons or Entities Directly Affected

The Department of Social Services finds that the adoption of these regulations will result in no cost impact on public agencies, private persons or entities directly affected.

g) Small Business Impact Statement

The Department of Social Services finds that the amendment of these regulations will not have a significant adverse economic impact on small businesses.

h) 15-Day Renotice Statement

A 15-day renotice has been published and the text of any changes made available to the public pursuant to the provisions of Section 11346.8 of the Government Code.

FINDING OF EMERGENCY

ORU #783-48

These regulations are being implemented on an emergency basis, for the immediate preservation of the public health, peace and safety or general welfare within the meaning of Section 11346.1 of the Government Code.

The following facts constitute the emergency:

1. The United States Department of Agriculture, Food and Nutrition Service issued final regulations on June 21, 1983 (48 Federal Register, No. 120, page 28190) regarding the accounting of utility costs in determining the food stamp allotments.
2. The substantive changes to state regulations caused by these new federal rules which are subject to this emergency rulemaking are: First, in cases where a food stamp household shares utility costs with others, the state regulations provide that the standard utility allowance shall be prorated among the household and others who share in the utility expenses. Federal regulations permit a state agency to provide that if the prorated share of utility costs paid by the parties cannot be accurately determined, the actual utility costs paid by each household shall be used. The state regulations have been revised to incorporate this provision. Second, households are now being limited to the number of times in a 12-month period it may select the SUA or use actual utility expenses. Contrary to this, current regulations provide for an unlimited number of changes in the same period. Finally, a change was made to describe how counties are to verify the existence of the actual utility expense.
3. These federal regulations, being promulgated June 21, 1983 are by their terms to be implemented no later than October 19, 1983. The nonemergency procedures of the Administrative Procedures Act (APA) (Government Code Section 11346.1 et seq.) would cause implementation beyond the federally imposed October 19, 1983 deadline. It is estimated that in fiscal year 1983/84, these regulations would create a savings of \$4,500,000 to the federal government. Any delay on California's part, in implementing these changes would subject it to fiscal sanctions resulting in the possibility it would be liable for all or part of the savings which does not accrue to the federal government.

4. Therefore, in order to timely conform to federal requirements, to avoid federal fiscal sanctions and to ensure recipients benefits are properly calculated, these regulations are adopted as an emergency measure to become effective as specified herein.

**Amend Section 63-038 to read:**

**63-038 IMPLEMENTATION OF AMENDED SUA REVISIONS**

**63-038**

**Effective on November 1, 1983, CWDs shall implement the amendments to the SUA revisions, as follows:**

- 1. Upon the effective date of these regulations, the amended revisions shall be applied to all new applications.**
- 2. Currently certified households shall be converted to the amended revisions by the time of recertification.**

**This order implements changes to Sections 63-300.516, •534• 63-502.361, and •363.**

**Authority:** Welfare and Institutions Code Sections 10553 and 18904.

**Reference:** Welfare and Institutions Code Section 18902 and 7 CFR 272.1(g).

Amend Section 63-300.516a to read:

**63-300 APPLICATION PROCESS (Continued)**

**63-300**

**•5 Verification (Continued)**

**•51 Mandatory Verification (Continued)**

**•516 Continuing Shelter Charges (Continued)**

**(a) Utility Expenses**

The CWD shall verify a household's utility expenses if the household wishes to claim its actual utility expense. If the household lives with and shares utility expenses with others and wishes to claim its actual utility expense, the CWD shall verify the actual utility expenses paid by the household. If the household's actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the county welfare department shall use the SUA, provided the household is entitled to use the SUA as specified in Section 63-502.36. If the household wishes to claim expenses for an unoccupied home, the CWD shall verify the household's actual utility expenses for the unoccupied home in every case and shall not use the SUA. Verification of utility costs of an unoccupied home outside the county is the responsibility of the household (see Section 63-300.524a).

Adopt new Section 63-300.534 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.53 Verification of Questionable Information (Continued)

.534 Multiple Household Expenses

When a food stamp household's statement regarding the sharing of utility expenses with other individuals and/or households living in the same residence is questionable, no deduction shall be allowed until verification of the sharing relationship is obtained.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901; 7 CFR 273.9(d)(6) and 273.2(f)(3).

Amend Sections 63-502.361 and .363 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

63-502

.3 Income Deductions (Continued)

.36 Standard Utility Allowances

.361 The standard utility allowance (SUA) may be used in calculating shelter costs of those households which incur heating or cooling costs separate and apart from their rent or mortgage payments. Households which do not incur any separate utility charges, or which are billed separately for only telephone costs, water, sewerage and garbage collection fees shall not be entitled to claim the standard utility allowance.

- (a) If the food stamp applicant/recipient household lives with and shares utility expenses with another individual not participating in the Food Stamp Program, or another household participating in the Food Stamp Program, or both, the SUA shall be prorated. To determine the food stamp household's pro rata share of the SUA, the EW shall:
  - (1) Determine the number of individuals not participating in the Food Stamp Program who live with the food stamp applicant/recipient household.
  - (2) Identify separate food stamp households who live with and share utility expenses with the household.
  - (3) Find the sum of: a) the number of individuals in No. 1; b) the number of household members in No. 2; and c) the number of household members in the applicant/recipient food stamp household.
  - (4) Divide the number of food stamp applicant/recipient household members by the sum in No. 3.

- (5) Multiply the SUA by the factor determined in No. 4. The food stamp household's pro rata share of the SUA has been determined.
- (b) If the CWD is unable to accurately determine the pro rata share of utility costs paid by the parties, the actual utility cost paid by the food stamp household shall be used.
- (c) The prorated amount for the food stamp household shall be used in calculating shelter costs. Households living in a public housing unit or other rental housing unit which has central utility meters and are charged for only excess utility costs shall not be entitled to claim SUA. Households not entitled to the standard utility allowance may claim actual utility expenses for any utility which it does pay separately. However, a household cannot simultaneously claim both the SUA and actual utility expenses. Verification of utility expenses shall be made in accordance with Sections 63-300.516 and 63-504.341.

#### **.36 Standard Utility Allowance (Continued)**

**.363** Except as provided in Section 63-502.362, the household shall be advised that it may, instead of using the SUA, deduct its total actual utility costs if the household can verify these costs. Households shall not be allowed to switch between the actual utility costs and the SUA for a period of 12 months following initial certification and may switch no more frequently than once every 12 months thereafter.

**Authority:** Welfare and Institutions Code Sections 10553 and 18904.

**Reference:** Welfare and Institutions Code Section 18901 and 7 CFR 273.9(d)(6).

FACE SHEET  
(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 1083-67

84-0208-1

REGISTRATION FOR FILING

FEB 9 1984 PM '84

ENCLOSURE  
ADMINISTRATIVE REGULATIONS

FEB 17 1984

Office of Administrative Law

LEAVE BLANK

## AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

## TELEPHONE

5-0313/3-0883

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

Title: \_\_\_\_\_ Manual of Policies and Procedures Sections 10-330.1 and 10-330.2

## SECTIONS ADOPTED

## SECTIONS REPEALED

Manual of Policies and Procedures Sections 10-320 (all), 10-325 (all) and 10-330.3

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

## Other Regulatory Actions:

 Procedural and Organizational Change Editorial Correction Authority and Reference  
Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES. State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)     (Attach Approval)     (Include FPPC Approval Stamp)     (Attach STD. Form 399)7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

not applicable

b. DATE OF ADOPTION OF REGULATION(S)

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346 B(c))

not applicable

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_c.  Effective on \_\_\_\_\_ filing with the Secretary Of State  
(Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Government Code Section 11346 2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of State.)

FILED

In the office of the Secretary of State  
of the State of California

FEB 17 1984

At 3:42 o'clock P.M.

MARCH FONG EU, Secretary of State

By Marjorie Henklein  
Deputy Secretary of State

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INITIAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

There currently exists conflicting regulations in the Manual of Policies and Procedures. These conflicting regulations could result in placing children in jeopardy who may have need of emergency services. In order to resolve this conflict these proposed emergency regulations are being filed to repeal and amend language in Division 10 of the Manual of Policies and Procedures which are in conflict with recently filed SB 14 regulations contained in Division 30 (ORD #183-6). The amendments in this filing were considered substantive by the Office of Administrative Law after the Department considered filing revisions under the authority granted in Section 11348.6(c) of the Government Code for 15-day notices.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

An Emergency Response program with full programmatic instructions is currently mandated in Division 30 as a result of SB 14. Division 10 regulations refer to an Emergency Response System which prioritizes the use of some services, whereas the intent of SB 14 is to give equal weight to all services. A conflict currently exists between Division 10 and Division 30 regulations. The filing of these amendments to Division 10 will clarify the intent of SB 14 and eliminate the possibility of placing children in jeopardy by having conflicting regulations.

Section 10-320 which specifies that Title IV-B allocations are to be expended in the event Emergency Assistance-Abused, Neglected or Exploited Children (EA-ANEC) funds are not provided will be repealed because of inconsistencies in Division 30 regulations filed on September 14, 1983 with the Office of Administrative Law and effective on October 1, 1983 (ORD #183-6).

Section 10-325 which specifies how 24-hour emergency response system monies are to be used is being repealed because of inconsistencies with Division 30 regulations which were filed on September 14, 1983 with the Office of Administrative Law and effective October 1, 1983 (ORD #183-6).

Section 10-330.1 is being amended to conform to previously filed regulations in Division 30 and sets forth services to be provided with EA-ANEC funds.

Section 10-330.2 amends the language which sets forth the length of service allowed for EA-ANEC Services for children and/or their families.

Section 10-330.3 is no longer applicable and is being repealed.

c) Identification of Documents Upon Which Department is Relying

45 CFR 233.10, 42 USC 602, 620, and 625.

d) Local Mandate Statement

These emergency regulations do constitute a mandate to local agencies, but not to any school district. There are no state mandated local costs in this order that require reimbursement under Section 2231 of the Revenue and Taxation Code because these regulations do not result in any increased costs within the meaning of Revenue and Taxation Code Section 2207.

e) Statement of Potential Cost Impact on Public Agencies, Private Persons, or Entities Directly Affected

The Department of Social Services finds that the adoption of these regulations will result in no cost impact on public agencies, private persons, or entities directly affected.

f) Small Business Impact Statement

The Department of Social Services finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses.

ORD #1083-67

## PUBLIC NOTICE

Public Hearing

Item #: EMERGENCY CHILD WELFARE SERVICES PROVISIONS OF SB 14  
(PHASE II)

CHAPTERS: 10-320 (Funding and Expenditures - Title IV-B, Child Welfare Services); 10-325 (Funding and Expenditures - Emergency Response for Child Protective Services) and 10-330 (Funding and Expenditures - Abused, Neglected or Exploited Children (EA-ANEC))

INFORMATIVE DIGEST: Current Division 10 regulations instruct county welfare departments (CWDs) to maintain a limited "Emergency Response System." Newly filed regulations in Division 30 as a result of SB 14, contain the requirement for CWDs to implement an "Emergency Response Program" with full programmatic instructions. In addition, service definitions for Title IV-B Child Welfare Services in these Division 10 regulations are outdated and do not coincide with the necessary and intended services of the newly filed Division 30 regulations. Furthermore, Division 10 prioritizes the use of some services whereas the legislative intent of SB 14 gives equal weight to all services mandated in Division 30. Consequently, these regulations are intended to establish conformity with recently filed Division 30 regulations.

## COST ESTIMATE:

1. Costs and Savings to State Agencies: -0
2. Costs and Savings to Local Agencies or School Districts: -0
3. Nondiscretionary Costs or Savings to Local Agencies: -0
4. Federal Funding to State Agencies: -0

LOCAL MANDATE STATEMENT: These emergency regulations do constitute a mandate to local agencies, but not to any school district. There are no state mandated local costs in this order that require reimbursement under Section 2231 of the Revenue and Taxation Code because these regulations do not result in any increased costs within the meaning of Revenue and Taxation Code Section 2207.

STATEMENT OF POTENTIAL COST IMPACT ON PUBLIC AGENCIES, PRIVATE PERSONS, OR ENTITIES DIRECTLY AFFECTED: The Department of Social

Services finds that the adoption of these regulations will result in no cost impact on public agencies, private persons, or entities directly affected.

**SMALL BUSINESS IMPACT STATEMENT:** The Department of Social Services finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses.

**AUTHORITY AND REFERENCE CITATIONS:** These regulations are proposed for adoption under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 16501. Subject regulations implement, interpret, and make specific Welfare and Institutions Code Sections 16500, 16504, and 16504.1.

**EMERGENCY STATEMENT:** These regulations are being adopted on an emergency basis for the immediate preservation of the public health, peace, and safety or general welfare within the meaning of Section 11346.1 of the Government Code.

## FINDING OF EMERGENCY

These regulations are being adopted on an emergency basis for the immediate preservation of the public peace, health and safety or general welfare, within the meaning of Government Code Section 11346.1.

The following facts demonstrate the need for immediate action:

1. Recently adopted Division 30 Emergency Response regulations, designed to implement recent changes in state law, conflict with the regulations at issue here. For example, current Division 10 regulations require that counties maintain a limited Emergency Response System, while new Division 30 regulations require counties to implement an Emergency Response Program with full programmatic instructions. In addition, service definitions for Title IV-B Child Welfare Services in Division 10-330 do not coincide with the necessary and intended services of the newly adopted Division 30 regulations. Also, Division 10 prioritizes the use of some services whereas Division 30 gives equal weight to all mandated services.
2. Conflicting and overlapping regulations in Divisions 30 and 10 are a cause of confusion for counties. This confusion could result in diffusion of limited resources which could be detrimental to children who are in need of those resources. For example, a county under Section 10-320.15 could expend monies for specialized needs, no longer a service funded activity in Division 30, on an equal basis as service funded activities under Division 30. As a result, funds could be expended at a rate which could result in the county being unable to provide the Emergency Response Program for periods of time. All children in that county may consequently be endangered as a result of these conflicting regulations.
3. In order to insure that the resources to be devoted to implementing the Emergency Response Program are most effectively utilized, and in order to insure that the safety of children, in imminent danger of harm, is not unnecessarily jeopardized, these regulations are adopted as an emergency measure to become effective upon filing with the Secretary of State, or as set forth herein.

Repeal Section 10-320 as shown:

~~10-320 FUNDING AND EXPENDITURES - TITLE IV-B,  
CHILD WELFARE SERVICES~~

10-320

- 1 County welfare departments are required to use these funds in establishing, extending and strengthening child welfare services as set forth in Section 425 of the Social Security Act.

EA-ANEC monies are not provided as specified in Section 10-330, counties shall expend County expenditures of the Title IV-B allocation shall be used for any of the following:

- 11 Making a protective services worker available to children in need of protection during evenings, nights and weekends to the extent that monies are not provided through EA-ANEC as specified in Section 10-330 as a first priority or through child protective service emergency response funding as specified in Section 10-325.
- 12 To the extent that monies are not provided through EA-ANEC as specified in Section 10-330, training and providing temporary caretakers for in-home care of children in need of protection because of parents' absence or temporary incapacity.
- 13 Providing respite day care as part of a treatment plan on an active child protective service case.
- 14 To the extent that monies are not provided through EA-ANEC as specified in Section 10-330, training and providing personnel to teach parents homemaker and parenting skills in cases where abuse and neglect occurs or where there is clearly identified and recorded potential for neglect or abuse.
- 15 Meeting specialized needs, such as camp, guardianship studies, tutoring and so forth to benefit the social adjustment of an individual child, which are not allowable under Title XX.
- 16 Paying the cost of return for an out-of-state runaway minor who has not been adjudicated under Section 601 or 602, Welfare and Institutions Code.
- 17 To the extent that monies are not provided through EA-ANEC as specified in Section 10-330, to pay the cost of

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~~Emergency shelter care for children in need of protection who cannot remain in their own homes. (See 30-106.22.) Any facility used shall be licensed or exempt from licensure.~~

~~•18 Any funds remaining after a county has met the above needs may be used for other child welfare services provided such other services are approved for funding in advance by SDSS.~~

**Authority:** Welfare and Institutions Code Sections 10553 and 10554.

**Reference:** Welfare and Institutions Code Sections 16502, 16504, 16504.1, and 16506.1; and 42 USC 620 and 625.

Repeal Section 10-325 as shown:

10-325 FUNDING AND EXPENDITURES - EMERGENCY RESPONSE  
FOR CHILD PROTECTIVE SERVICES

10-325

- 1 If counties accept 24-hour emergency response system monies, it shall be used to:
  - 11 Provide emergency protective service coverage and response as mandated in Section 30-113.1; and
  - 12 Augment existing 24-hour emergency response systems which are in effect at the time these funds are provided.
- 2 Counties receiving a state emergency response allocation shall provide a 25% match of funds.
- 3 If counties accept 24-hour emergency response system monies, it shall be spent first on the basic program. Basic 24-hour emergency response CPS services may be funded either in whole or in part by 24-hour monies.
  - 31 If counties accept the full emergency response allocation then counties shall use those funds plus the county match first to provide basic 24-hour emergency response services. Monies formerly spent on basic 24-hour response services which are then supplanted by the emergency response allocation and match shall be used first to complete the basic program requirements, and the remaining monies shall be used for back-up services as specified in Section 10-325.5.
  - 32 If counties accept a reduced emergency response allocation, then counties shall maintain at a minimum all basic 24-hour response services as established in Section 30-113.1. Counties may then use a combination of "new" emergency response allocations and county match with "old" or existing emergency response funding to supply basic 24-hour services, provided that the county can clearly demonstrate an increased level of service resulting from receipt of the "new" money.
- 4 When a county accepts the full or partial allocation of state funds for 24-hour emergency response and that allocation plus county match is in excess of what is needed for the basic response system, the remaining allocated funds plus county match shall be used for back-up services as specified in Section 10-325.5.

- ~~R E A P E A T~~
- 5 Monies required to be used for 24-hour emergency response back-up services shall be applied as allowed by Section 30-100 (CASP Mandated Program No. 2) or by Section 10-320.11 in the order specified in .511 through .515 below. Any deviation from this order shall be approved in advance by SDSS.
  - 51 Emergency response back-up services shall be limited to the following:
    - 511 Emergency caretakers, teaching and demonstrating homemakers, and respite care;
    - 512 Follow-up treatment services;
    - 513 Emergency shelter care;
    - 514 Multi-disciplinary teams;
    - 515 Primary child abuse and neglect prevention services, which shall be provided only after the above needs have been met and only with prior SDSS approval.
  - 52 With the exception of the primary child abuse and neglect prevention services specified in .515 above, emergency response back-up services shall be limited to services which are deemed necessary and which are initiated within 5 working days of the emergency child protective services response as defined in Section 30-102.4 and described in Section 30-113.12. Once an emergency response back-up service unless prompted by another emergency child protective services response situation.

~~R E A P E A T~~

**Authority:** Welfare and Institutions Code Sections 10553 and 10554.

**Reference:** Welfare and Institutions Code Sections 16500, 16504, and 16504.1.

Amend Sections 10-330.1 and .2, including the opening paragraph and repeal Section 10-330.3.

10-330 FUNDING AND EXPENDITURES--EMERGENCY ASSISTANCE- 10-330  
ABUSED, NEGLECTED OR EXPLOITED CHILDREN (EA-ANEC)

EA-ANEE are those activities aimed at providing immediate response in emergency situations where a child is being or is in immediate danger of being abused, neglected, or exploited in order to maintain the child in a safe home environment or provide short-term out-of-home care for a child who cannot remain in his/her own home.

- 1 When the child/family meets EA-ANEE eligibility criteria as set forth in EAS 45-400, county welfare departments shall use Title IV-A Emergency Assistance EA-ANEC funds for when providing the following services to children and families meeting the EA-ANEC eligibility criteria specified in Chapter 45-400:
  - \*1 Emergency In-Home Caretakers, defined as care of a child provided in the home when the parent/relative caretaker is incapacitated, absent, or otherwise unable to provide proper care for the child.
  - 11 Counseling, as defined in Section 30-002(z)(1).
  - 12 Emergency Shelter care, as defined in 30-002-2<sup>t</sup> Section 30-002(z)(3).
    - 121 Funding for this service is restricted to the conditions and limitation set forth in 30-106.22 shall be subject to the requirements specified in Sections 30-158.2 through .32.
  - \*13 Information and Referrals, as defined in 30-051.
  - 13 Out-of-home respite care, as defined in Section 30-002(z)(6).
  - 14 Parenting training, as defined in Section 30-002(z)(7). Parent Education/Training, defined as payment for and/or provision of parenting, personal care, child development, nutrition, home management, and consumer education provided through social work services and/or specialized format instruction and practice in skill achievement. Parent Education/Training may utilize a broad range of training activity from formal classroom sessions to

individual or group counseling and/or demonstration sessions.

\*#5 Respite care as defined in 30-101-9\*

.15 Temporary in-home caretaker, as defined in Section 30-002(z)(10).

.16 Transportation, as defined in Section 30-002(z)(11).

.17 Information and referral, as defined in Sections 30-051.1 through .13.

\*#6.18 Social Work Services defined as case management and counseling activities which assure ensure the appropriate accurate assessment of recipient the child's and family's needs, and the provision of necessary services.

\*#7 Transportation as defined in 30-002-2\*

.2 Funding under Emergency Assistance shall not be claimed for services for more than when services for a child/family are funded under EA-ANEC, service provision for that child/family shall be limited to one period of up to 30 days during any 12-month period for a child and/or the child's family.

\*3 The provision of this chapter shall apply to all applications filed on or after July 1, 1982.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16501.

Reference: Welfare and Institutions Code Sections 16500, 16504, and 16504.1.

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 483-30

840120-3

RECEIVED FOR FILING

JAN 20 3 00 PM '84

ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING

FEB 21 1984

Office of Administrative Law  
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1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

*Linda S. McMechan*

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State  
of the State of California

FEB 21 1984

At 4:16 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Mayouie Heschberger*Deputy Secretary of State  
LEAVE BLANK

## AGENCY CONTACT PERSON AND POSITION

Dion Webb, Regulations Analyst

TELEPHONE

445-0313

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

Title: 63-202

## SECTIONS ADOPTED

63-033

## SECTIONS REPEALED

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

## Other Regulatory Actions:

 Procedural and Organizational  
Change Editorial Correction Authority and Reference  
Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES. State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)     (Attach Approval)     (Include FPPC Approval Stamp)     (Attach STD. Form 399)7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

July 1, 1983

b. DATE OF ADOPTION OF REGULATION(S)

January 18, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

September 16, 1983

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

Adopt new Section 63-033 to read:

63-033    IMPLEMENTATION OF TRAINING AND BILINGUAL  
REVISIONS

63-033

CWDs shall implement these regulations on Program Administration and Personnel Requirements promulgated in accordance with 5 USC 601-612 as amended by Public Law 96-354, effective on the first day of the month, 30 days after filing with the Secretary of State. This order affects changes to Section 63-202.1-5.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 18904.

Reference: Welfare and Institutions Code Section 18902, 7 CFR 272.4(b) and (d), 5 USC 601-612 (Public Law 96-354, 94 Stat. 1164).

Amend Section 63-202.1 through 202.4; repeal Section 63-202.51 through .56 to read:

63-202 PROGRAM ADMINISTRATION AND PERSONNEL REQUIREMENTS 63-202

.1 Merit personnel

- 11 County welfare department CWD personnel used in the certification process shall be employed in accordance with the current standards for a merit system of personnel administration or any standards later prescribed by the U.S. Civil Service Commission under Section 208 of the Intergovernmental Personnel Act of 1970.
- 12 CWD County personnel meeting the above standards shall perform the interviews required in Section 63-300.4. Volunteers and other non-CWD county employees personnel shall not conduct certification interviews or certify food stamp applicants. Exceptions to the use of merit system personnel in the interview and certification process are specified in Section 63-900.51 for emergency food stamp assistance in disasters victims. Counties CWDs may use volunteers in activities such as prescreening (as defined in Section 63-102JJ), assisting applicants in the application and certification process, and in securing needed verification. Individuals and organizations who are parties to a strike or lockout, and their facilities, may not be used in the certification process except as a source of verification for information supplied by the applicant. Only authorized employees personnel of the county CWD, coupon issuers, coupon bulk storage points, and federal or state employees personnel involved in administration of the program shall be permitted access to food coupons, ATP's, or other issuance documents.

.2 Bilingual Requirements

- 21 For BSS bilingual requirements, refer to Bilingual staffing, certification, and program informational material shall be provided in accordance with the requirements of Division 21.

.3 Internal Controls

In order to safeguard certification and issuance records from unauthorized creation or tampering, the county CWD shall establish an organizational structure which divides the responsibility for eligibility determinations and coupon

issuance among certification, data management, and issuance units. The certification unit shall be responsible for the determination of household eligibility and the creation of records and documents to authorize the issuance of coupons to eligible households. The data management unit, in response to input from the certification unit, shall create and maintain the household issuance record (HIR) master file on cards, computer discs, tapes, or similar memory devices. The issuance unit shall provide certified households with the authorized allotments. In cases where personnel are periodically, or on a part-time basis, shifted from one unit to another, supervisory controls should shall be sufficient to assure ensure that the unauthorized creation or modification of case records is not possible.

**.431 Exceptions**

With prior written SDSS approval, a county the CWD may combine unit responsibilities if the controls specified above have been found to be administratively infeasible.

**.4311 To receive approval of combined operations, the county CWD shall establish special review requirements which at a minimum include:**

- a) Biweekly reconciliation and verification of transactions; and
- b) Semiannual comparison of HIR cards and case records as required by Section 63-706.1 and, at least once every other month, second-party review of certification actions.

**.4312 The county CWD shall annually determine whether each combined operation continues to be justified and shall so advise SDSS in writing.**

**.54 Training**

**.41 Minimum Requirements**

**.411 The county CWD shall institute and maintain a continuing training program for food stamp eligibility workers and individuals involved in prescreening activities.**

- (a) Sufficient training shall be provided to the eligibility workers prior to their initial assumption of job duties and, subsequently, on an as-needed basis.**

- \*412 The CWD shall provide sufficient staff time to ensure that the eligibility worker training requirement is met.
- \*51 County training programs shall cover eligibility criteria, certification procedures, household rights and responsibilities, including nondiscrimination rights, and other job-related responsibilities concerning the certification of households, for example, interviewing skills. The content of training programs shall be reviewed on a semiannual basis in light of program deficiencies identified through OSS's performance reporting system and modifications shall be made where warranted. Changes in policy or procedures stemming from court actions or revisions to legislation and regulations shall be promptly reflected in county training programs.
- \*52 Employees assigned responsibility for the certification of households shall be provided with sufficient training prior to initially assuming their duties. As needed, format training shall be provided periodically to all certification staffs. The need shall be established by policy changes and program deficiencies identified by the performance reporting system. Inadequate performance by individual employees may also indicate the need for training.
- \*53 The county shall invite the public to attend format certification training sessions conducted for county staff on a county-wide basis. (Informal unit meetings held to discuss unit problems and to instruct workers in correct procedures are not considered "format" training sessions.) Public attendance at format training sessions shall be allowed for 5 percent of the total attendance at the sessions of five training slots, whichever number is smaller except that public attendance need not be provided at sessions conducted for fewer than 20 persons. The county shall invite individuals from the community who represent recipients or organizations working on behalf of recipients, who are knowledgeable about program eligibility rules and certification requirements and who are actively engaged in work or volunteer activity related to food stamp certification rules. The county shall not exclude arbitrarily individuals who otherwise meet these criteria due to disagreements between these individuals and the county concerning aspects of county operations. The county may limit the role of public participants to observation only.

- \*54 Training shall also be provided to county personnel who prescreen or provide other information services to applicants or the public. Although this training need not be as comprehensive as that for certification personnel it shall be in sufficient detail and frequency to insure that low-income households have access to accurate program information and that prescreening when conducted is accurate.
- \*55 Training shall also be provided to volunteers and to the staff of other organizations and agencies that the county may use for prescreening and providing program information. The training shall be in sufficient detail and frequency to insure that information provided to low-income households is accurate.
- \*56 The county shall provide training on all the eligibility criteria and certification procedures, including the processing standards, to eligibility workers and supervisors before they begin to certify households under these regulations. The requirements for public participation in training sessions shall be implemented with these training sessions. The county shall during conversion to the new rates provide training promptly where program reviews indicate that training is needed to ensure the accurate implementation of these regulations.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Section 18902, 7 CFR 272.4(b) and (d), 5 USC 601-612 (Public Law 96-354, 94 Stat. 1164).

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

840127-2

RECEIVED FOR FILING

JAN 27 3 01 PM '84

DEPARTMENT OF  
ADMINISTRATIVE LAW

FEB 24 1984

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AGENCY CONTACT PERSON AND POSITION

Jerry Demorest, Regulations Analyst

TELEPHONE

323-0881

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 45-202.41 and .42

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational Change

Editorial Correction

Authority and Reference  
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing \_\_\_\_\_

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal  
(Attach Approval)

Building Standards Comm.  
(Attach Approval)

Fair Political Practices Comm.  
(Include FPPC Approval Stamp)

Department of Finance  
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

September 30, 1983

b. DATE OF ADOPTION OF REGULATION(S)

January 25, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346 B(c))

N/A

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_

c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

ORD #883-54

FILED

In the office of the Secretary of State  
of the State of California

FEB 26 1984

At 4:03 o'clock P.M.

MARCH FONG EU, Secretary of State

By Marjorie Hershberger  
Deputy Secretary of State

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ORD #883-54

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on September 28, 1983, and which became effective on October 1, 1983.

Manual of Policy and Procedures, Division 45, Chapter 200,  
Sections:

Amended

45-202.41  
45-202.42

These regulations were presented at public hearing on November 17, 1983.

  
\_\_\_\_\_  
LINDA S. McMAHON  
Director

1-25-84  
\_\_\_\_\_  
Date

(1) Amend MPP Sections 45-202.41 and .42 to read:

45-202 FEDERAL AFDC-FC PROGRAM (Continued)

45-202

.4 Authority for Placement (Continued)

.41 The child shall be removed from the home of a parent or relative as the result of a court order which specifies:

.411 that continuance in the home of that parent or relative would be contrary to the child's welfare; and

.412 that, if the child is placed into foster care on or after October 1, 1983, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home; and

.42 The court order shall

.421.413 Specify that the responsibility for placement and care be vested in one of the agencies listed in Section 45-202.611 and .

.422 Result The court order shall result in the child's placement in foster care with a nonrelative or with a different relative than the one from whose home he/she was removed.

.421 This requirement shall be determined to be met if the child was absent from the parent's or relative's home in the month the petition, which initiated court action for removal, was filed, provided the child had resided with such parent or relative within any of the six months prior to the month that petition was filed. For example, the child was living with a grandparent for any reason in the month the petition was filed. However, within any of the six months preceding the filing of the petition, which initiated court action, the child lived with the parent from whom the child was removed. This child shall be considered removed from the home of his/her parent and placed with the grandparent. Furthermore, the linkage determination shall be based on that parent's home as provided in Section 45-202.313.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 42 USC 671(a)(15) and 42 USC 672(a)(1).



Amend Section 63-301.531 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.53 Processing Standards (Continued)

.531 Zero Net Income and Substitute Expedited Service  
Households

For households entitled to expedited service, except as specified in Sections 63-301.532 and .533 below, the county welfare department CWD shall mail the household's ATP or coupons no later than the close of business of the second fifth working calendar day following the date the application was filed.

The county welfare department CWD shall offer the household the option of having the ATP or coupons mailed by the second working fifth calendar day or of having the ATP or coupons available for the household or its authorized representative to pick up no later than the start of business of the third working fifth calendar day following the date the application was filed. In counties that use an HIR issuance system and that do not provide any mail issuance, the county shall have the coupons available for the household or its representative to pick up no later than the start of business of the third working fifth calendar day following the date the application was filed.

**Authority:** Welfare and Institutions Code Sections 10553, 10554, and 18904.

**Reference:** Welfare and Institutions Code Sections 10553 and 18914; and 7 CFR Part 273.2.

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING

FEB 3 10 07 AM '84

ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING

MAR 5 1984

Office of Administrative Law  
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## AGENCY CONTACT PERSON AND POSITION

Janet Lombard, Regulations Analyst

## TELEPHONE

3-1899

## 2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

Title: 41-440.124; 41-440.125

## SECTIONS ADOPTED

## SECTIONS REPEALED

40-131.3(p)

## 3. TYPE OF ORDER (CHECK ONE)

 Regular Emergency  
(Attach Finding of Emergency) Certificate of Compliance

## Other Regulatory Actions:

 Procedural and Organizational  
Change Editorial Correction Authority and Reference  
Citation Change

## 4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

 No Yes, if yes give date of previous filing \_\_\_\_\_

## 5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

 No Yes6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES. State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)    (Attach Approval)    (Include FPPC Approval Stamp)    (Attach STD. Form 399)7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

September 30, 1983

## b. DATE OF ADOPTION OF REGULATION(S)

February 2, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

## 8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

 No Yes9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)a.  Effective 30th day after filing with the Secretary of State.b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).) Request Attachedd.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

ORD #883-52

FILED

In the office of the Secretary of State  
of the State of CaliforniaMARCH 5 - 1984  
At 4:04 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By CATHLEEN PATRICK  
Deputy Secretary of State

LEAVE BLANK

ORD #883-52

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on October 7, 1983, and which became effective on October 7, 1983.

Sections 40-131.3(p), 41-440.124, and 41-440.125.

No amendments or repealers resulted from the public hearing held on November 17, 1983.

  
\_\_\_\_\_  
LINDA S. MCMAHON  
Director

2-2-84  
\_\_\_\_\_  
Date

UPDATED INFORMATIVE DIGEST

State legislation, AB 223, Chapter 323, Statutes of 1983, which amended Welfare and Institutions Code Section 11315 establishes limitations upon the length of eligibility for those receiving State-only AFDC-U. Current regulations, filed on an emergency basis and effective October 7, 1983, limit eligibility for the State-only AFDC-U program to three months in any 12-consecutive-month period for those who do not receive Emergency Assistance - Unemployed Parent (EA-UP), and to two months in any 12-consecutive-month period for those who do receive EA-UP.

## FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Regulations filed on an emergency basis and effective October 7, 1983, implement provisions of state law, Welfare and Institutions Code Section 11315, as amended by AB 223, Chapter 323 of the Statutes of 1983, Section 112. These regulations limit a family's eligibility for the State-only AFDC-U program to three months in any 12-consecutive-month period for families not receiving Emergency Assistance - Unemployed Parent (EA-UP) in that period, and to two months in any 12-consecutive-month period for families receiving EA-UP in that period.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 40-131.3(p): Repeal of this regulation is necessary in order to remove language which is inconsistent with Welfare and Institutions Code Section 11315, amended by AB 223, Chapter 323, Statutes of 1983. Welfare and Institutions Code Section 11315 limits State-only AFDC-U eligibility to three months in any 12-consecutive-month period for those who have not received EA-UP benefits and to two months in any 12-consecutive-month period for those who do receive EA-UP in that period.

Section 41-440.124: This regulation specifies the condition which is decisive in determining whether the family receives two or three months of aid under the State-only AFDC-U program. This amendment is necessary to implement Welfare and Institutions Code Section 11315 amended by AB 223, (Chapter 323, Statutes of 1983) which limits eligibility for State-only AFDC-U to three months in any 12-consecutive-month period for those who do not receive EA-UP benefits during that period, and to two months in any 12-consecutive-month period for those who do receive EA-UP benefits in that period. A handbook section has been added to provide for the transition of persons receiving EA-UP or State-only AFDC-U prior to the change in state law but whose eligibility continues after the state law change.

Section 41-440.125: This section has been amended and renumbered to delete language which is inconsistent with

Welfare and Institutions Code Section 11315, amended by AB 223, Chapter 323, Statutes of 1983. Welfare and Institutions Code Section 11315 limits State-only AFDC-U eligibility to three months in any 12-consecutive-month period for those who have not received EA-UP benefits and to two months in any 12-consecutive-month period for those who do receive EA-UP in that period.

c) Identification of Documents Upon Which Department Is Relying

Welfare and Institutions Code Section 11315 as amended by Chapter 323, Statutes of 1983, Section 112.

d) Testimony Summary and Response

These regulations contained in ORD #883-52 were submitted to OAL on an emergency basis, and were partially approved. The portion of the regulations which was approved on an emergency basis was filed and became effective on October 7, 1983. The remainder of the regulation package was not approved on an emergency basis. However, the entire package, both the emergency and nonemergency portions, was noticed and heard at public hearing on November 17, 1983.

Subsequent to the public hearing, review of the testimony revealed the need to substantially revise portions of the regulations. Since the portion requiring revision is the nonemergency portion of the regulations, this package has been divided into two separate packages. The emergency portion of the regulations, effective October 7, 1983, has not been revised and the Certificate of Compliance is being filed at this time. The portion of the regulations not approved on an emergency basis and requiring further revisions will be treated in a separate package and will be scheduled for another public hearing in April or May, 1984.

The regulations were considered at a public hearing on November 17, 1983 and the record was held open until 5:00 p.m. on December 13, 1983. No oral testimony was received. Written testimony was received from the following agencies:

1. Los Angeles County Department of Public Social Services (LA DPSS)
2. Riverside County Department of Public Social Services (RIV DPSS)
3. Santa Barbara County Department of Social Services (STBR CDSS)

4. U.S. Department of Health and Human Services (US DHHS)

5. Yuba County Welfare Department (YU CWD)

The testimony received has been summarized and responded to as appropriate. Those portions of the testimony pertaining to sections of the regulations which were not filed on an emergency basis will be considered and responded to in a separate package which is being scheduled for another public hearing. This separate package will also contain revisions suggested by the testimony received.

Section 41-440.12:

Comment: YU CWD suggested the need to address the issue of what the county welfare department (CWD) should do in the situation in which a pregnant woman is receiving pregnant woman State "U" under Section 44-205.26, and the child is born after issuance of the check on the 15th of the month.

- a. Should the baby and father be added the date of birth as Non-Federal people and the family cycle EA-UP and State-U begin the first of month following the child's birth?
- b. If not, regulations should address how the CWD should handle that issue, as it is not an uncommon occurrence.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the provisions not approved on an emergency basis as part of ORD #883-52.

Comment: STBR CDSS requested definition for "family." Testimony stated it is not clear whether the ineligibility of only one person makes the entire family ineligible.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52. Those regulations will include a definition for the term "family."

Comment: LA DPSS favors applying the State-U eligibility period to families rather than persons.

SDSS Response: No response necessary.

Section 41-440.12(d):

Comment: LA DPSS requested clarification of the term "month". Testimony stated that counties should specifically be given the option to define "month" as thirty days or a calendar month. Testimony gave the following example to illustrate the problem; in the proposed regulations EA-UP is limited to thirty days, and State-U is limited to two and three months. Thus, when EA-UP is received from October 1 to October 30, inclusive, the State-U commences on October 31. The last day of the State-U could be either December 29 (60 days) or December 30 (two calendar months), depending upon how "month" is defined.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52. Those regulations will contain definitions for the terms "month" and "calendar month."

Section 41-440.12(d) and (h):

Comment: Testimony from LA DPSS stated that although the term "12-consecutive-month period" is discussed in Section 41-440.12(d), the discussion as to when the period begins and ends is not given until Section 41-440.12(h). Testimony recommended that the information contained in these two sections be placed next to each other in the regulations.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52.

Comment: LA DPSS recommended that the proposed regulations specify:

- 1) that EA-UP must be used before State-U if the family is eligible to it, and
- 2) that a family may receive only two months of State-U if they are eligible to EA-UP or received EA-UP in any of the preceding 12-consecutive-months.

SDSS Response:

- 1) This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52.

- 2) The Department finds Section 41-440.124 clear in specifying that families who receive EA-UP benefits are eligible to receive only two months of State-only AFDC-U.

Section 41-440.12(f):

Comment: Testimony from STBR CDSS pointed out that Section 41-440.12(f) refers to Section 44-205.26. Section 44-205.264 refers to Section 41-440.125, which is being repealed.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52.

Comment: Testimony from RIV DPSS stated that under the old EAS Section 40-131.3p(1), the pregnant woman was aided for a total of three months of State-U and no EA-UP eligibility upon the birth of the child. As we interpret this new section, (41-440.12f) the pregnant woman would be entitled to three months State-U, then upon birth of the child would be entitled to 30 days of EA-UP and an additional two months of State-U. Is this correct?

EXAMPLE: FBU - 1 added 11/83 through 1/84 as State-only-U  
unborn born 2/84 - ends 12-month cycle  
FBU of 3 aided 2/1/84 through 3/1/84 EA-UP  
FBU of 3 aided 3/2/84 through 5/1/84 as  
State-Only-U

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52.

Comment: LA DPSS testified that Sections 41-440.12(f) and (1) should more clearly state that upon the birth of the child, the entire family including the woman who was aided under State-U while pregnant, begins a new 12-consecutive-month cycle for eligibility to State-U and EA-UP. Testimony also requested clarification as to whether the woman's 12-month cycle of eligibility ends when a pregnancy terminates for a reason other than the live birth of a child.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52.

Section 44-205.28:

Comment: Testimony from US DHHS, Office of Family Assistance stated that under 45 CFR 233.120, Emergency Assistance is granted to needy families, not individuals. Once EA has been granted to a family for a 30-day period, EA cannot be granted to incoming family members past the 30-day period until the 12-month limit has expired.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52.

General

Comment: Testimony from LA DPSS recommended that the regulations clarify whether EA-UP must always be used before State-U. The question becomes complicated when an individual who is eligible to EA-UP joins an FBU that has already received EA-UP within the preceding 12-month period. For example, a family receives 30 days of EA-UP beginning June 1, and two months of State-U from July 1 through August 31. A child who was not in the FBU in June returns to the family on July 1. That child has eligibility for 30 days of EA-UP and the two months of State-U which the family still has. IF EA-UP must be used first, the child would lose eligibility to one month of State-U. If the child could receive State-U first, he would then have two months of State-U followed by EA-UP.

SDSS Response: This testimony will be considered as part of a more comprehensive regulations package which will include the regulations not approved on an emergency basis as part of ORD #883-52.

e) Local Mandate Statement

These regulations constitute a mandate on local agencies but not on local school districts. There are no state mandated local costs in this order which require reimbursement under Section 2231 of the Revenue and Taxation Code because there is no cost.

f) Statement of Potential Cost Impact on Public Agencies, Private Persons or Entities Directly Affected

The Department of Social Services finds that the adoption of these regulations will result in no cost impact on public agencies, private persons, or entities directly affected.

**g) Small Business Impact Statement**

**The Department of Social Services finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses.**

**Repeal Section 40-131.3(p).**

**40-131 INTERVIEW REQUIREMENT (Continued)**

**40-131**

**.3 Content of Application Interview (Continued)**

**p. The three-month limit on assistance when the basis of deprivation is State-only AFDC-U as specified in EAS 41-440.12. In the case of a pregnant woman with no eligible child(ren) who is eligible for assistance under EAS 44-205.26, the applicant is to be informed of the FBU options that may maximize aid to the family. See Section 44-205.24.**

- (1) The pregnant woman with no eligible child(ren) may be eligible as an FBU of one for the three month limit. Upon the birth of the child, the child and the second parent in the home (FBU of two), if eligible, would receive aid under the Emergency Assistance-Employed Parent (EA-UP) Program in accordance with EAS 41-500, with transfer to State-only AFDC-U, if eligible, at the end of the EA-UP period of eligibility with the mother's needs excluded as specified in EAS 44-206.1; or**
- (2) The pregnant woman with no eligible child(ren) may withdraw her application, or if within 60 days of eligibility, have her application held pending eligibility, until the birth of the child. Upon the birth of the child, the child and both parents in the home (FBU of three), if eligible, would receive aid under the EA-UP Program in accordance with EAS 41-500, with transfer to State-only AFDC, if eligible, at the end of the EA-UP period of eligibility.**

**Authority:** Welfare and Institutions Code Sections 10553 and 10554.

**Reference:** Welfare and Institutions Code Sections 11250.5, 11315, and 11450.

Amend Sections 41-440.124 and .125 to read:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued)

41-440

.1 Definition (Continued)

.12 State-only AFDC-U Program (Continued)

.124 Effective July 1, 1982, eligibility for State-only AFDC-U program benefits shall not exceed three months in any 12 consecutive month period except that for those families who receive EA-UP in that period (see Section 41-500), eligibility under this program shall be limited to two months in any 12 consecutive month period.

(1) Persons receiving EA-UP or State-only AFDC-U on the effective date of these regulations, if otherwise eligible, shall be eligible as a person to receive up to 30 days of EA-UP and three months of State-only AFDC-U during the 12 consecutive month period which began on the beginning date of aid.

.125 The eligibility period shall be determined as follows:

(a) Persons receiving State-only AFDC-U program benefits on June 30, 1982, if otherwise eligible, shall be eligible to receive up to three months of State-only AFDC-U benefits during the 12 consecutive month period which began on July 1, 1982.

(b) Persons who receive Emergency Assistance program benefits under EAS Section 41-500 on or after July 1, 1982, if otherwise eligible, shall be eligible to receive up to three months of State-only AFDC-U program benefits during the 12 consecutive month period which commences on the beginning date of aid for State-only AFDC-U.

(c) Emergency Assistance program benefits under Section 41-500 cannot be paid to a pregnant woman one person FBU, or to cover the pregnancy special need payment (Section 44-205.2 and 44-211.4). When a pregnant woman, and unborn child, if born and living with the mother,

would be eligible to receive State-only AFDC-U program benefits, the pregnant woman shall be eligible to receive up to three months of State-only AFDC-U benefits during the 12 consecutive month period which commences on the beginning date of aid.

**Authority:** Welfare and Institutions Code Sections 10553 and 10554.

**Reference:** Welfare and Institutions Code Sections 11250.5, 11315, and 11450.

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #383-20c

84-0306-1

FILED

In the office of the Secretary of State  
of the State of California

MAR 7 - 1984

At 4:12 o'clock P.M.

MARCH FONG EU, Secretary of State

By Mayree Heahleger  
Deputy Secretary of State

LEAVE BLANK

ENDORSED  
APPROVED AND FILED

MAR 7 1984

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

State Department of Social Services  
(AGENCY)

BY:

Rosalie Clark  
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Rick Torres

TELEPHONE

5-0313/3-0883

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title:

SECTIONS ADOPTED

63-039

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational  
Change

Editorial Correction

Authority and Reference  
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing \_\_\_\_\_

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal  
(Attach Approval)

Building Standards Comm.  
(Attach Approval)

Fair Political Practices Comm.  
(Include FPPC Approval Stamp)

Department of Finance  
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

NA

b. DATE OF ADOPTION OF REGULATION(S)

February 24, 1983

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

NA

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_

c.  Effective on February 1, 1984 (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

## INSTRUCTIONS FOR STD 400 (OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.  
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

- b. Provide the date on which the regulatory agency adopted the regulation(s).
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

### Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

JAN 19 7 00 PM '84

ENDORSED  
A SUPPLY OF EXPENDABLES

JAN 30 1984

Office of Administrative Law  
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

State Department of Social Services

AGENCY  
BY: *Linda S. McHugh*  
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

ENDORSED FILED  
IN THE OFFICE OF

JAN 30 4 40 PM 1984

MARCH FONG EU  
SECRETARY, STATE  
OF CALIFORNIA

TELEPHONE 5-0313/3-0883

## AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

## SECTIONS AMENDED

Title: 63-504.264, 63-504.322, 63-504.324, 63-504.34 and 63-504.355

## SECTIONS ADOPTED

63-039

## SECTIONS REPEALED

63-503.232(d)(2)

## TYPE OF ORDER (CHECK ONE)

Regular       Emergency  
(Attach Finding of Emergency)       Certificate of Compliance

## Other Regulatory Actions:

Procedural and Organizational Change       Editorial Correction       Authority and Reference Citation Change

## IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No       Yes, if yes give date of previous filing \_\_\_\_\_

## IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No       Yes

IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal       Building Standards Comm.       Fair Political Practices Comm.  
(Attach Approval)      (Attach Approval)      (Include FPPC Approval Stamp)       Department of Finance  
(Attach S10, Form 300)

PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

## b. DATE OF ADOPTION OF REGULATION(S)

NA January 19, 1984

c. DATES OF AVAILABILITY OF MODIFYING  
REGULATION(S) (GOV. CODE SEC. 11346.2)

NA

## WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No       Yes

EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

Effective 30th day after filing with the Secretary of State.

Effective on \_\_\_\_\_ as required by statute(s) (list) \_\_\_\_\_

Effective on February 1, 1984 (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(a))

Request Attached

Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of State)

**Adopt Section 63-039 to read:**

**63-039 IMPLEMENTATION OF MONTHLY REPORTING AND RETROSPECTIVE BUDGETING (INCOMPLETE MONTHLY ELIGIBILITY REPORT - CA 7)**

**Effective February 1, 1984, county welfare departments (CWDs) shall implement the provisions of Monthly Reporting and Retrospective Budgeting (Incomplete Monthly Eligibility Report - CA 7) for all new applicants and currently certified households.**

**Authority:** Welfare and Institutions Code Sections 10553 and 18904.

**Reference:** Welfare and Institutions Code Section 19901.

This section was inadvertently omitted from the original emergency order filed 1-30-84.

FACE SHEET  
(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

84-0207-1

ORD #181-3  
Resubmission

RECEIVED FOR FILING

FEB 7 10 05 AM '84

STATE OF CALIFORNIA  
OFFICE OF ADMINISTRATIVE LAW

MAR 15 1984

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Judie S. McNamee  
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State  
of the State of California

MAR 15 1984

At 3:54 o'clock P.M.

MARCH FONG EU, Secretary of State

By Majorie Hershbeiger  
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Harry Baertschi

TELEPHONE 5-7054

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 22 Division 2, Chapter 3, Sections 30724 and 30728<sup>2</sup> and 30626-30626.3

SECTIONS ADOPTED

Div. 2, Chap. 3, § 30626.3, 30724.3

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational Change

Editorial Correction

Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing September 29, 1983

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)    (Attach Approval)    (Include FPPC Approval Stamp)    (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

12/01/82 and 12/23/83

b. DATE OF ADOPTION OF REGULATION(S)

1/30/84

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

12/23/83

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_

c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

## UPDATED INFORMATIVE DIGEST

Current regulations make no provision for natural fathers to bring an action pursuant to Civil Code Section 7006 to establish a father-child relationship when there is a rebuttably presumed father. Current regulations do not provide for the termination of the parental rights of an alleged natural father where he has been served notice that he is or could be the father of the child and he does fail to bring an action pursuant to Civil Code Section 7006 to declare the existence of a father and child relationship within 30 days of such notice or the birth of the child, whichever is later.

The proposed regulations provide the following:

- 1) The alleged natural father may bring an action pursuant to Civil Code Section 7006 to establish the existence of a father-child relationship even though the child has a rebuttably presumed father under Civil Code Section 7004.
- 2) If the alleged natural father is served notice that he is or may be the father of the child and he fails to file an action under Civil Code Section 7006, his parental rights will terminate 30 days after the notice or the birth of the child, whichever is later.
- 3) The Department or agency is required to inform the natural father of his rights under Civil Code Section 7006 and that failure to file such an action will result in termination of his parental rights. Information about the alleged natural father's family and medical background will also be sought. The waiver of notice may be signed by the alleged natural father before or after the birth of the child.
- 4) Specifies how the adoption agencies are to serve notice upon the alleged natural father.
- 5) Nonsubstantive changes in wording and numbering are also included.

FINAL STATEMENT OF REASONS

a) General Purpose of the Regulations

The purpose of the regulations is to revise current adoption regulations regarding alleged natural fathers so as to bring the regulations into compliance with SB 540, Chapter 752, Statutes of 1979 which amended Civil Code Sections 7006 and 7017.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

1. These regulations implement the provisions of Senate Bill 540, Chapter 752, Statutes of 1979 in that these regulations provide for:
  - a. The Department of Social Services or the adoption agency must inform an alleged natural father he may bring an action under Civil Code Section 7006 to establish the existence of a father-child relationship even though the child has a rebuttably presumed father under Civil Code Section 7004. The action under Civil Code Section 7006 must be brought within thirty (30) days either from service of notice to the alleged natural father that he is or could be the father of a child, or birth of the child, whichever is later. If he fails to file within the above time limits, his parental rights to the child terminate.
  - b. The Department of Social Services and delegated adoption agencies are required to accept the consent to adoption (Civil Code Section 226.4) and the relinquishment of parental rights (Civil Code Section 224m) signed by the child's parents. There are no current regulations specifying that the alleged natural father be told of his rights to have the court determine whether he is the child's father or that his parental rights will be terminated if he does not file an action under Civil Code Section 7006. There are no regulations requiring that the adoption agency obtain when possible family and medical background on the alleged natural father.  
Current regulations fail to provide procedures for giving notice pursuant to Civil Code Section 7017 to the alleged natural father.

c) Identification of Documents Upon Which Department is Relying

1. Prior to SB 540, Chaptered 752, Statutes of 1979, which these regulations implement, there was no statutory provision for the alleged natural father to bring legal action to establish a father-child relationship when the child has a rebuttably presumed father under Civil Code Section 7004. There was no statutory provision to terminate the parental rights of an alleged natural father where he had been served notice that he is the father or could be the father of the child and he does not bring an action pursuant to Civil Code Section 7006 to declare the existence of the child and father relationship within 30 days of such notice or the birth of the child, whichever is later.
2. There is a need for uniform statewide procedures for the Department of Social Services and licensed adoption agencies for handling adoptions involving alleged natural fathers.

d) Testimony Summary and Response

No public testimony was presented at the public hearing and no testimony was submitted during the public comment period.

e) Local Mandate Statement

These regulatory revisions impose no new mandates on local agencies or on local school districts.

f) Statement of Potential Cost Impact on Public Agencies, Private Persons or Entities Directly Affected

The Department of Social Services (DSS) finds that the adoption of this regulation will result in no cost impact on public agencies, private persons or entities directly affected.

g) Small Business Impact Statement

The Department of Social Services (DSS) finds that the amendment of these regulations will not have an adverse economic impact on small businesses.

h) 15-Day Renotice Statement

Renotice was put into effect since changes were made to the regulations following the public hearing.

i) Explanation of Changes Made by the Department Following the Public Hearing.

INDEPENDENT

1. Section 30724.1(c) This section has been revised to indicate that the rights of all presumed fathers must be terminated.
2. Section 30724.1(d) This section has been revised to indicate clearly that it is not necessary to terminate the rights of an alleged father when there is a conclusively presumed father under Evidence Code 621.
3. Section 30724.1(e) This section has been deleted since the stated requirement is already provided for in Sections 30724.1(b) and (d).
4. Section 30724.1(f) (Formerly 30724(f)) This section has been revised to delete references to certified copies of documents and to add a reference to proof of mail as well as personal service.
5. Section 30724.2(a) This section has been revised to delete reference to the Civil Code and for clarification.
6. Section 30724.2(a)(2) (Formerly 30724.2(b)(2)) This section has been revised to delete reference to court action as there is no comparable reference in the law.
7. Section 30724(a)(4) (Formerly 30724.2(b)(4)) This section has been revised to delete reference to parents agreeing to an adoption plan as it is not pertinent to the purpose of the section.
8. Section 30724(b)(1)(D) (Formerly 30724.2(c)(1)(D)) This section has been revised to delete reference to notifying the court that the alleged father was served with notice as it is not pertinent to the purpose of the section. A reference to serving notice on the alleged father is added to the section.
9. Section 30724.2(b)(3)(B) (Formerly 30724.2(c)(3)(C)) This section has been revised to delete reference to making an inquiry to determine the identity of the father since the statement duplicates a provision in the law.

10. Section 30724.2(b)(3)(B) (Formerly 30724.2(c)(3)(E)) This section has been deleted and the content included in Section 30724.2(b)(1)(D).
11. Section 30724.3(a)(4) This section has been revised to delete the requirement for a return receipt when the alleged father is served with notice by mail under Civil Code Section 7017.
12. Section 30724.3(a)(5) This section was revised for clarification.
13. Section 30724.3(b) This section has been revised to refer to "Declaration of Personal Service" rather than "Proof of Personal Service" when the alleged father is served by mail.
14. Section 30724.3(c) This section has been revised to indicate that out-of-state notice to an alleged father should be sent by certified mail.

#### RELINQUISHMENT

1. Section 30626.1(c) Same as #1 for independent adoptions.
2. Section 30626.1(d) Same as #2 for independent adoptions.
3. Section 30626.1(e) Same as #3 for independent adoptions.
4. Section 30626.1(e) (Formerly 30626.1(f)) This section has been revised to delete the reference to the filing of certified copies of all documents with the Department and to specify instead the documents that must be certified when filed. A phrase was also added to indicate that notice may be served on the alleged father by mail as well as by personal service.
5. Section 30626.2(a) Same as #5 for independent adoptions.
6. Section 30626.2(a)(2) (Formerly 30626.2(b)(2)) This section has been revised for clarity and to delete reference to court action as there is no comparable reference in the law.
7. Section 30626.2(a)(3) (Formerly 30626.2(b)(3)) This section has been revised to delete an extraneous phrase.
8. Section 30626.2(a)(4) (Formerly 30626(b)(4)) Same as #7 for independent adoptions.

9. Section 30626.2(b)(1)(D) (Formerly 30626(c)(1)(D)) This section has been deleted because the content is repetitive of former Section 30626.2(b)(1)(E).
10. Section 30626.2(c)(3)(D) This section was deleted as it repeats a requirement in the law.
11. Section 30626.3(a)(1) This provision on procedures for notice to the alleged father was omitted previously due to an oversight.
12. Section 30626.3(a)(5) (Formerly 30626.3(a)(4)) Same as #12 for independent adoptions.
13. Section 30626(b) Same as #13 in independent adoptions.
14. Section 30626(c) Same as #14 in independent adoptions.

INDEPENDENT

Renumber and Amend Section 30724.1 to read:

30724# Definitions

- (a) Mother means the woman who has established proof that she has either given birth to the child or has adopted the child.
- (b) Presumed father means the man who is determined to be the natural father of a child under the conditions set forth in Evidence Code Section 621 of the Evidence Code which reads, "Notwithstanding any other provisions of law the issue of a wife cohabiting with her husband who is not impotent or sterile is conclusively presumed to be a child of the marriage" or meets any of the criteria set forth in the following subdivisions Civil Code Section 7004 (a)(1)-(4) of the Civil Code unless otherwise stated.
- #1 He and the child's natural mother are or have been married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce or a decree of separation is entered by a court.
- #2 Before the child's birth he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law although the attempted marriage is or could be declared invalid and
- #a If the attempted marriage could be declared invalid only by a court the child is born during the attempted marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce or
- #b If the attempted marriage is invalid without a court order the child is born within 300 days after the termination of cohabitation.
- #3 After the child's birth he and the child's natural mother have married or attempted to marry each other by a marriage solemnized in apparent compliance with the law although the attempted marriage is or could be declared invalid and

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- (A) With his consent he is named as the child's father on the child's birth certificate or
  - (B) He is obligated to support the child under a written voluntary promise or by court order
  - (C) He receives the child into his home and openly holds out the child as his natural child"

PRESUMED FATHER:

- (A) Under Evidence Code 621; a man is conclusively presumed to be the father of the child under the following conditions:

The issue of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage, unless the court finds that the conclusions of all experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (commencing with Section 890) of Division 7 of the Evidence Code are that the husband is not the father of the child.

- (B) Under Civil Code Section 7004(a)(1-4) a man is rebuttably presumed to be the natural father of the child if he meets any of the following criteria:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.

(2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid; and

(i) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

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(ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

- (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and
- (i) With his consent, he is named as the child's father on the child's birth certificate; or
  - (ii) He is obligated to support the child under a written voluntary promise or by court order.
- (4) He receives the child into his home and openly holds out the child as his natural child.

(c) Alleged natural father means the man who meets each of the following criteria:

- (1) Is named as or claims to be the natural father of the child.
- (2) Is not married to the mother.
- (3) Does not meet the definition of a presumed father.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Sections 224, 229, 7004 and 7006, Evidence Code Section 621.

Renumber and Amend Section 30724 to read:

30724.1 Termination of Parental Rights

- (a) The legal relationship that exists between a child and his parents, if living, shall be terminated prior to the adoption.
- (b) The mother and presumed father may terminate their parental rights to the child by signing a consent to the adoption of their child. In the absence of a signed consent, parental rights must shall be terminated by legal action pursuant to Civil Code Sections 224 or 232 of the Civil Code.
- (c) When there is more than one presumed father, the rights of all presumed fathers must shall be terminated either by consent to the adoption of the child or by legal action pursuant to Civil Code Section 224 or 232 of the Civil Code.
- (d) When there is no presumed father under Evidence Code Section 621, the parental rights of all the alleged natural father(s) shall be terminated prior to the adoption through court action or notification in accordance with Civil Code Section 7017 or by the alleged natural father's signing a consent, a waiver of further notice of the adoption proceedings, or a denial of paternity. The alleged natural father may in writing waive his right to further notice of the adoption, deny paternity of the child, or consent to the adoption of the child. In the absence of any of these, the alleged natural father's parental rights shall be terminated in accordance with Section 7017 of the Civil Code.
  - (e) The parental rights of both the presumed father and the alleged natural father must be terminated as in (b) and (d) above if it is reported that the presumed father is not the natural father and the mother and presumed father were:
    - (1) Not cohabiting or\*
    - (2) Cohabiting and the presumed father was impotent or sterile\*
  - (f) Copies of all consents, waivers of notice, denials of paternity, reports of all court actions terminating parental rights, notices, and proof of personal or mail service shall be kept in the case record.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Sections 224, 229, 232, 7006 and 7017.

Amend Section 30724.2 to read:

30724.2 Procedures Regarding Alleged Natural Father

(a) The alleged natural father shall be given notice of the adoption plan for the child:

{1} If there is no presumed father or

{2} If there is a presumed father and it is reported that the presumed father is not the natural father and the mother and presumed father were not cohabiting or if cohabiting he was impotent or sterile.

If there is no conclusively presumed father, the Department or a delegated agency shall inform the natural mother and petitioners and the alleged natural father of the following:

{b} The natural mother and the petitioners shall be informed and the alleged natural father notified of the following:

(1) That the alleged natural father may:

(A) Sign consent to the adoption of his child, or

(B) Sign a waiver of his right to further notification of the adoption proceedings, or

(C) Deny paternity in writing, or

(D) Bring an action pursuant to Civil Code Section 7006 to establish a father-child relationship.

(2) That legal action will need to be taken by the petitioners or the mother in the absence of a signed consent, waiver or denial of maternity to terminate the alleged natural father's parental rights. That if the alleged natural father fails to bring a Civil Code Section 7006 action within 30 days after service of the notice or the birth of the child, whichever is later, and has not signed a waiver of notice or denial of paternity, his parental rights are terminated on the 31st day after notice is served or on the 31st day after the birth of the child, whichever is later.

(3) That in the event the court determines the alleged natural father is the presumed father and his consent is

necessary, the adoption cannot proceed unless the parents mutually agree on the adoption plan or his parental rights are terminated pursuant to Section 232 of the Civil Code. That the alleged natural father's rights may be terminated at a court hearing in accordance with Civil Code Section 7017.

- (4) That in the event a court action is brought and the court determines that the alleged natural father is a presumed father the petitioners cannot proceed with the adoption planning unless the father consents to the adoption or the father's rights are terminated pursuant to Civil Code Section 232.

(e)(b) The State Department of Health or its delegated agency shall attempt to identify, and locate, and contact the alleged natural father by the following procedure:

- (1) Identity and Location Known. The Department or its delegated agency shall contact the alleged natural father if the mother identifies him and if she or the petitioners have knowledge of his whereabouts. If the mother identifies the alleged natural father and she or the petitioners have knowledge of his whereabouts, the Department or its delegated agency shall contact and interview him.
- (A) The Department or its delegated agency shall accept the alleged natural father's signature on a form prescribed by the Department if he wishes to consent to the adoption. The consent shall comply with the general regulations regarding taking a consent.
- (B) The alleged natural father may either waive his right to further notice or deny paternity by signing a statement to that effect. The statement shall be signed before an authorized official of the Department of Health or delegated agency or before a notary public and shall contain information identifying the child and the mother.
- (C) A denial of paternity or a waiver of notice may be signed before or after the birth of the child. A waiver or eConsent may shall be signed only after the birth of the child.
- (D) In the absence of the alleged natural father's signed consent, waiver of notice, or denial of paternity, he may be served notice pursuant to

30724.3 of the action he may take under Civil Code Section 7006. the Department of Health or delegated agency shall: If the alleged natural father was served with notice pursuant to 30724.3 and no response has been made within 30 days of such notice or the birth of the child, whichever is later, the alleged natural father's rights are terminated without further action.

1\* Inform the court of the above in a preliminary report\*

2\* Inform the petitioners and the mother of the need for the petitioners or the mother to petition the court in accordance with Section 7017 of the Civil Code to terminate the alleged natural father's rights before the adoption can be completed\*

(2) Identity Known - Location Unknown. The Department of Health or delegated agency shall attempt to locate and contact the alleged natural father if the mother identifies him or he has been identified to the satisfaction of the court. If he cannot be located, the Department of Health or delegated agency shall: If the mother identifies the alleged natural father or he has been identified to the satisfaction of the court and he cannot be located, the Department or delegated agency shall:

(A) Inform the court in a preliminary report that the alleged natural father cannot be located.

(B) Inform the petitioners and the mother of the need for the petitioners or the mother to petition the court in accordance with Civil Code Section 7017 of the Civil Code to terminate the alleged natural father's parental rights, and to request that the court dispense with notice of the proceeding to such alleged natural father\*

(3) Identity Unknown. If the mother is unable or unwilling to identify the alleged natural father or names more than one man as a possible father, the Department of Health or delegated agency shall:

(A) Inform the petitioners and the mother of the need for the petitioners or the mother to petition the court in accordance with Civil Code Section 7017 of the Civil Code to terminate the alleged natural

father's parental rights of all alleged natural fathers.

- (8) Enquire of the mother and any other appropriate person whether or not:
1. The mother was married at the time of conception of the child or at anytime thereafter.
  2. The mother was cohabiting with a man at the time of conception or birth of the child.
  3. The mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
  4. Any man has formally or informally acknowledged or declared his possible paternity of the child.
  5. Any additional information is available which tends to establish the alleged natural father's identity.

The Department or the agency shall inquire of the mother and any other appropriate person as to whether or not:

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1. The mother was married at the time of conception of the child or at anytime thereafter.
2. The mother was cohabitating with a man at the time of conception or birth of the child.
3. The mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
4. Any man has formally or informally acknowledged or declared his possible paternity of the child.
5. The Department or the agency shall report the results of the inquiry to the court. (Civil Code Section 7017(c))

- (9) Inform the mother of the results of the inquiry.

- (B) If Report to the court the results of the inquiry.  
Inform the mother of the results of the inquiry  
pursuant to Civil Code Section 7017(c).
- (C) Report the results of the inquiry pursuant to Civil  
Code Section 7017(c) to the court.
- (C) If the alleged natural father is interviewed, the Department  
or its delegated agency shall request information on his  
family background and social history, his personal and family  
medical history, and his hereditary and genetic diseases or  
disabilities, if any.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Sections 224s, 7006 and 7017.

Adopt Section 30724.3 to read:

30724.3 Notification Procedure

(a) When the alleged natural father's rights are terminated by notice only, and court action is not to be initiated by the petitioners or the mother to terminate his rights, the alleged natural father shall be served with notice ~~as in~~ described in Civil Code Section 7017. The notice shall:

- (1) Be served by any person who is at least 18 years of age and not a party to the action or an employee of the adoption agency, the adoption unit of the welfare department, or DSS.
  - (2) Be served as soon as the identity and location of the alleged natural father has been determined.
  - (3) Be in a form approved by the Department.
  - (4) Be certified if served by mail.
  - (5) Be sent with two copies of the notice and acknowledgment and a stamped self-addressed envelope.
- (b) A declaration of personal service shall be completed, dated, and signed by the person who served the notice.
- (c) Notice shall be served on a person outside the state by certified mail or by personal delivery through a service request to a local public or private agency.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Section 7017, Code of Civil Procedure 414.10, 415.10, 415.30, 415.40, 417.10, 417.20.

## RELINQUISHMENT

Renumber and Amend Section 30626.1 to read:

### **30626.1 Definitions**

- (a) Mother means the woman who has established proof that she has either given birth to the child or has adopted the child.
- (b) Presumed father means the man who is determined to be the natural father of a child under the conditions as set forth in Evidence Code Section 621 of the Evidence Code which reads "Notwithstanding any other provision of law the issue of a wife cohabiting with her husband who is not impotent or sterile is conclusively presumed to be a child of the marriage" or meets any of the criteria set forth in the following subdivisions Civil Code Section 7004 (a)(1)-(4) of the Civil Code unless otherwise stated.
  - "(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce or after a decree of separation is entered by a court;
  - (2) Before the child's birth he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law although the attempted marriage is or could be declared invalid and
    - (A) If the attempted marriage could be declared invalid only by a court the child is born during the attempted marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce;
    - (B) If the attempted marriage is invalid without a court order the child is born within 300 days after the termination of cohabitation;
  - (3) After the child's birth he and the child's natural mother have married or attempted to marry each other by a marriage solemnized in apparent compliance with law although the attempted marriage is or could be declared invalid and

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- (a) With his consent he is named as the child's father on the child's birth certificate or
  - (b) He is obligated to support the child under a written voluntary promise or by court order.
  - (c) He receives the child into his home and openly holds out the child as his natural child."

#### PRESUMED FATHER

- (A) Under Evidence Code 621 a man is conclusively presumed to be the father of the child under the following conditions:

The issue of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage, unless the court finds that the conclusions of all experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (commencing with Section 890) of Division 7 of the Evidence Code are that the husband is not the father of the child.

- (B) Under Civil Code Section 7004(a)(1-4) a man is rebuttably presumed to be the natural father of the child if he meets any of the following criteria:

- (1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.
- (2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid; and
  - (i) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

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- (ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.
- (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and
  - (i) With his consent, he is named as the child's father on the child's birth certificate; or
  - (ii) He is obligated to support the child under a written voluntary promise or by court order.
- (4) He receives the child into his home and openly holds out the child as his natural child.

(c) Alleged natural father means the man who meets each of the following criteria:

- (1) Is named as or claims to be the natural father of the child.  
~~(2) Is not married to the mother.~~
- ~~(3)~~ Does not meet the definition of a presumed father.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Sections 224, 229, 7004, 7006, Evidence Code Section 621.

Renumber and Amend Section 30626 to read:

30626.1 Termination of Parental Rights

- (a) The legal relationship that exists between a child and his parents, if living, shall be terminated prior to adoption.
- (b) The mother and presumed father may terminate their parental rights to the child by relinquishment to a licensed adoption agency or Department of Health. In the absence of a signed relinquishment, the agency or Department of Health shall petition the court to terminate parental rights pursuant to Section 232 of the Civil Code. The parental rights of the mother and presumed father shall be terminated either by relinquishment of the child to a licensed adoption agency or to the Department or by court action brought by the agency or the Department pursuant to Civil Code Section 232.
- (c) When there is more than one presumed father, the rights of all presumed fathers must shall be terminated either by relinquishment or court action pursuant to Section 232 of the Civil Code as in (b) above.
- (d) When there is no presumed father under Evidence Code Section 621, the parental rights of all the alleged natural father(s) shall be terminated prior to the adoption. The alleged natural father may in writing waive his right to further notice of the adoption, deny paternity of the child or relinquish the child to an adoption agency or Department of Health. In the absence of any of these, the alleged natural father's parental rights shall be terminated in accordance with Section 7017 of the Civil Code by any of the following: court action, or notification pursuant to Civil Code Section 7017, relinquishment or waiver of further notice of the adoption proceedings, or denial of paternity.
- fet The parental rights of both the presumed father and the alleged natural father must be terminated as in f1 and f2 above if it is reported that the presumed father is not the natural father and he and the mother and presumed father were:
  - f1 Not cohabiting or
  - f2 Cohabiting and the presumed father was impotent or sterile

~~tft(e)~~ Certified copies of all documents and reports of all court actions terminating parental rights shall be forwarded for filing with the State Department of Health--Sacramento. relinquishments, waivers of notice, denials of paternity, reports of all court actions terminating parental rights, notices, and proof of personal or mailed service shall be forwarded to the Department for filing. The relinquishments, waivers of notice and denials of paternity shall be certified copies.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Sections 224, 224m, 229, 232, 7006 and 7017.

Amend Section 30626.2 to read:

30626.2 Procedures Regarding Alleged Natural Father

(a) The alleged natural father shall be given notice of the adoption plan for the child:

(1) If there is no presumed father or

(2) If there is a presumed father and it is reported that the presumed father is not the natural father and the mother and presumed father were not cohabiting or if cohabiting he was impotent or sterile.

If there is no conclusively presumed father, the Department or delegated agency shall inform the natural mother and petitioners and the alleged natural father of the following:

(b) The adoption agency or Department of Health shall inform the mother and notify the alleged natural father of the following:

(1) That the alleged natural father may:

(A) Sign a waiver of his right to further notification of adoption planning. Relinquish the child to the adoption agency or to the Department of Social Services, or

(B) Relinquish the child to the adoption agency or Department of Health. Sign a waiver of his right to further notification of adoption proceeding, or

(C) Deny paternity in writing, or

(D) Bring an action pursuant to Civil Code Section 7006 to determine the existence of a father-child relationship.

(2) That legal action will be taken requesting the court to determine parentage and rights in the absence of a signed denial of paternity, waiver of rights to further notice or relinquishment to an adoption agency or Department of Health. That in the absence of the alleged natural father's signed relinquishment, waiver of notice or denial of paternity, if the alleged natural father was served with notice pursuant to Civil Code Section

7017 and no response has been made within 30 days of service of such notice or the birth of the child, whichever is later, the alleged natural father's parental rights are terminated.

- (3) That in the event the court determines the alleged natural father is a presumed father and his consent is necessary, the agency or Department of Health cannot proceed with adoption planning unless the parents mutually agree on the adoption plan or his parental rights are terminated pursuant to Section 232 of the Civil Code. That the agency may bring a court action to terminate the alleged natural father's rights in accordance with Civil Code Section 7017.
- (4) That in the event a court action is brought and the court determines that the alleged natural father is the presumed father, the Department or agency cannot proceed with adoption proceeding unless the father signs a relinquishment or his rights are terminated pursuant to Civil Code Section 232.

Section (b) The adoption agency or Department of Health shall attempt to identify, locate and contact and locate the alleged natural father by the following procedure:

- (1) Identity and Location Known. The agency or Department of Health shall contact the alleged natural father if the mother identifies him and has knowledge of his whereabouts. If the mother identifies the alleged natural father and has knowledge of his whereabouts, the adoption agency or Department shall contact and interview him.
  - (A) The agency or Department of Health shall accept the alleged natural father's signature on a form prescribed by the Department if he desires to relinquish the child for adoption. The relinquishment shall comply with general regulations regarding the taking of relinquishments, and a certified copy of his signed relinquishment and a certified copy of the mother's signed relinquishment or other notification verifying that the child is legally free from its mother shall be forwarded for filing with the State Department of Health.
  - (B) The alleged natural father may either waive his right to further notice of adoption planning or deny paternity by signing an unequivocal

statement to that effect. The statement shall be signed before an authorized official of the adoption agency or Department of Health, or before a notary public and shall contain information identifying the child and the mother. A certified copy of the waiver or denial of paternity and a certified copy of the mother's signed relinquishment or other notification verifying that the child is legally free from its mother shall be forwarded for filing with the State Department of Health.

- (C) A denial of paternity or a waiver of notice may be accepted before or after the birth of the child. The A waiver or relinquishment may be accepted only after the birth of the child.
- (D) In the absence of a signed relinquishment, waiver or denial of paternity, the agency or Department of Health shall petition the court to terminate the parental rights in accordance with Section 7017 of the Civil Code:
- 1\* If the court terminates the alleged natural father's rights or determines that only the mother's consent to the adoption is required, the agency or Department of Health shall forward a report of the results of the court action and a certified copy of the mother's signed relinquishment or other notification verifying that the child is legally free from its mother for filing with the State Department of Health.
  - 2\* If the court determines that the alleged natural father is a presumed father and that his consent is necessary, the agency shall inform the mother that further adoption planning cannot proceed unless the parents mutually agree upon the plan and the required relinquishment is obtained from the presumed father or his parental rights are terminated pursuant to Section 232 of the Civil Code.
- (D) In the absence of the alleged natural father's signed relinquishment, waiver of notice or denial of paternity he may be served notice pursuant to 30626.3 of the action he may take under Civil Code Section 7006. If the alleged natural father is served with notice pursuant to 30626.3 and 109

response was made within 30 days of service of such notice, or the birth of the child, whichever is later, the alleged natural father's rights are terminated without further action.

- (E) In the absence of a relinquishment, waiver, or denial signed by the alleged natural father or termination of the alleged natural father's rights through notification pursuant to Civil Code Section 7017, the agency or Department shall take court action in accordance with Civil Code Section 7017.
- (2) Identity Known - Location Unknown. The agency or Department of Health shall attempt to locate the contact the alleged natural father if the mother identifies him or he has been identified to the satisfaction of the court and his whereabouts are unknown. If he cannot be located, the agency or Department of Health shall. If the mother identifies the alleged natural father or he has been identified to the satisfaction of the court and he cannot be located, the agency or Department shall:
- (A) Petition the court to terminate the alleged natural father's parental rights pursuant to Civil Code Section 7017 of the Civil Code.
  - (B) Inform the court that the alleged natural father cannot be located.
  - (C) Request that the court dispense with the notice of the proceeding to such alleged natural father.
- (D) The agency or Department of Health shall forward a report of the results of the court action to terminate the parental rights of the alleged natural father who cannot be located and a certified copy of the mother's signed relinquishment or other notification that the child is legally free from its mother for filing with the State Department of Health.
- (3) Identity Unknown. The agency or Department of Health shall contact any appropriate persons in an effort to identify and locate the alleged natural father if the mother is unable or unwilling to identify him or names more than one man as the possible father.
- (A) The agency or Department of Health shall inform the mother of any information received by the agency or Department of Health which tends to establish the

identity of the alleged natural father prior to petitioning the court to terminate the alleged natural father's parental rights.

- (B) If the alleged natural father is identified after the inquiry and the mother confirms his identity, procedures under Section 30626.2(f)(b)(1) or (2) shall apply.
- (C) The agency or Department of Health shall petition the court to terminate the parental rights of the alleged natural father if he remains unidentified. The agency or Department of Health shall report to the court whether or not:
- 1. The mother was married at the time of conception of the child or at any time thereafter.
  - 2. The mother was cohabiting with a man at the time of conception or birth of the child.
  - 3. The mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
  - 4. Any man has formally or informally acknowledged or declared his possible paternity of the child.
  - 5. Any additional information is available which tends to establish the alleged natural father's identity.

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The Department or the agency shall inquire of the mother and any other appropriate person as to whether or not:

- 1. The mother was married at the time of conception of the child or at any time thereafter.
- 2. The mother was cohabiting with a man at the time of conception or birth of the child.
- 3. The mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.

HANDBOOK

4. Any man has formally or informally acknowledged or declared his possible paternity of the child.
  5. The Department or the agency shall report the results of the inquiry to the court. (Civil Code Section 7017(c))
- (b) The agency or Department of Health shall forward a report of the result of court actions to terminate the parental rights of the alleged natural father and a certified copy of the mother's signed relinquishment or other notification verifying that the child is legally free from the mother for fitting with the State Department of Health.
- (c) If the alleged natural father is interviewed, the adoption agency or Department shall request information on his family background and social history, and information on his hereditary and genetic diseases or disabilities, if any.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Sections 224m, 224s, 7006 and 7017.

Adopt Section 30626.3 to read:

30626.3 Notification Procedure

- (a) When the alleged natural father's rights are terminated by notice only, and court action is not to be initiated by the Department or agency to terminate his rights, the alleged natural father shall be served with notice in accordance with Civil Code Section 7017. The notice shall:
  - (1) Be served by any person who is at least 18 years of age and not a party to the action or an employee of the adoption agency, the adoption unit of the welfare department, or DSS.
  - (2) Be served as soon as the identity and location of the alleged natural father has been determined.
  - (3) Be in a form approved by the Department.
  - (4) Be certified if served by mail.
  - (5) Be sent with two copies of the notice and acknowledgement and a stamped self-addressed envelope.
- (b) A declaration of personal service shall be completed, dated, and signed by the person who served the notice.
- (c) Notice shall be served on a person outside the state by certified mail or by personal delivery through a service request to a local public or private adoption agency.

Authority: Welfare and Institutions Code Section 10553.

Reference: Civil Code Section 7017, Code of Civil Procedures 414.10, 415.10, 415.30, 415.40 and 417.10, 417.20.

ENDORSED  
APPROVED FOR FILING  
MAR 16 1984

Office of Administrative Law

MAR 16 1984

OFFICE OF ADMINISTRATIVE LAW

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AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

TELEPHONE  
5-0313/3-0883

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

See Attached

SECTIONS ADOPTED

See Attached

SECTIONS REPEALED

See Attached

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational  
Change

Editorial Correction

Authority and Reference  
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing \_\_\_\_\_

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal  
(Attach Approval)

Building Standards Comm.  
(Attach Approval)

Fair Political Practices Comm.  
(Include FPPC Approval Stamp)

Department of Finance  
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

NA

b. DATE OF ADOPTION OF REGULATION(S)

March 16, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

NA

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on April 1, 1984 as required by statutes: (list) \_\_\_\_\_

c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on \_\_\_\_\_ (Designate effective date later than 30 days after filing with the Secretary of  
State.)

(ORD #783-47)

840316-1

FILED

In the office of the Secretary of State  
of the State of California

MAR 16 1984

At 3:49 o'clock p.m.

MARCH FONG EU, Secretary of State

By Marjorie Neuhenger  
Deputy Secretary of State

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PUBLIC NOTICE

Public Hearing

Item #: FOOD STAMP DISQUALIFICATION PENALTIES FOR INTENTIONAL PROGRAM VIOLATIONS AND IMPROVED RECOVERY OF OVERPAYMENTS

CHAPTERS: 63-040 (Implementation of Disqualification Penalties, Overissuance Recoveries, and Restoration of Lost Benefits); 63-103 (Administrative Authorities); 63-402 (Household Concept); 63-501 (Resource Determinations); 63-502 (Income, Exclusions and Deductions); 63-503 (Determining Household Eligibility and Benefit Levels); 63-504 (Household Certification and Continuing Eligibility); 63-702 (Liabilities); 63-801 (Claims Against Households); 63-805 (Intentional Program Violation Disqualification); 20-300 (Intentional Program Violations in the Food Stamp Program); 22-001 (Definitions); 22-003 (Right to State Hearing); 22-200 (Administrative Disqualification Hearings-General); 22-202 (Notice of Administrative Disqualification Hearing); 22-210 (Hearing Procedure); 22-220 (Hearing Decision); 22-230 (Disposition of Administrative Disqualification Hearings); and 22-240 (Consolidation of Administrative Disqualification Hearing With a State Hearing).

INFORMATIVE DIGEST: These regulations implement federal regulation changes found in 7 CFR 272.1; 273.1, .8, .9, .11, .13, .16, and .18; and 276.2.

As a result of federal regulation changes current SDSS regulations inadequately address the areas of disqualification penalties, overissuance recoveries, and sponsored aliens.

Current regulations contain inadequate provisions addressing the disqualification of household members who commit intentional Program violations. These emergency regulations expand the basis for disqualifying household members who have intentionally violated Food Stamp Program regulations.

Current regulations contain a maximum disqualification period of 24 months for the commission of an intentional Program violation. These emergency regulations address the period of disqualification to show that for the first intentional Program violation offense the period of ineligibility will be six months, 12 months for the second offense and "permanently" for the third violation.

Currently, the household member who received a coupon overissuance due to an inadvertent household or administrative error claim is held responsible for any coupon issuances to which he/she was not entitled. These emergency regulations hold the entire household responsible for any coupon overissuance. Subsequent collection action shall be initiated against the household containing the majority of the individuals who were household members at the time the overissuance occurred. If this cannot be determined, the CWD shall initiate collection action against the household containing the head of household at the time the overissuance occurred.

Current regulations require the proration of income from a disqualified member as being available to the household. These regulations require that the entire income and resources of the disqualified member be considered available to the household.

Current regulations do not address the repayment of overissuances which sponsored alien household received. These emergency regulations require that sponsored aliens and their sponsor be held jointly and severally liable for the repayment of any overissuance to the sponsored aliens' household.

These emergency regulations also amend the content of the hearing notice, provide for hearing postponement upon proper request, and amend the procedures for consolidated hearings; define an intentional Program violation, delete the term "fraud" and replace it with "intentional Program violation(s)," describe the county's responsibilities in investigating and referring violations to the appropriate entity, and establish procedures to be followed by the county in reporting intentional Program violations to FNS. These emergency regulations assure that the above-cited federal criteria for food stamp disqualification penalties for intentional Program violations and the improved recovery of overpayments are in compliance with federal law. In addition, various nonsubstantive technical changes such as changing noncurrent terminology, and renumbering are also included.

#### COST ESTIMATE:

1. Costs and Savings to State Agencies: Unable to estimate due to lack of specific data.
2. Costs and Savings to Local Agencies or School Districts: Unable to estimate due to lack of specific data.
3. Nondiscretionary Costs or Savings to Local Agencies: Unable to estimate due to lack of specific data.

4. Federal Funding to State Agencies: Unable to estimate due to lack of specific data.

LOCAL MANDATE STATEMENT: These regulations do constitute a mandate to local agencies but not to any school district. There are no state mandated local costs in this order that require reimbursement under Section 2231 of the Revenue and Taxation Code because this order does not increase program or service levels above that which is required by the federal government.

STATEMENT OF POTENTIAL COST IMPACT ON PUBLIC AGENCIES, PRIVATE PERSONS, OR ENTITIES DIRECTLY AFFECTED: The Department of Social Services finds that the adoption of these regulations will result in no cost impact on public agencies, private persons, or entities directly affected.

SMALL BUSINESS IMPACT STATEMENT: The Department of Social Services finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses.

AUTHORITY AND REFERENCE CITATIONS: These regulations are proposed for adoption under the authority granted in Welfare and Institutions Code Sections 18904 and 10553. The regulations implement, interpret, and make specific Welfare and Institutions Code Sections 18901, 18902, and 18904; and 7 CFR Sections 272.1(g)(g); 273.1(b); 273.11(c) and (h); 273.13(b); 273.16(a), (b), (c), (e), and (i); 273.18; 273.8(j); and 276.2(c).

EMERGENCY STATEMENT: These regulations will be adopted and filed with the Secretary of State on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11376.1(b).

## FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public health, peace and safety or general welfare within the meaning of Section 11346.1 of the Government Code.

The following facts constitute the Emergency:

1. The United States Department of Agriculture (USDA), issued final food stamp regulations regarding disqualification and overpayment collection on February 15, 1983 to be implemented by April 1, 1983. A written advance notification from USDA Food and Nutrition Services (FNS) dated April 7, 1983 was received by SDSS which indicated that failure to implement these federal provisions may result in a disallowance of federal funds. On February 23, 1984, SDSS received a formal warning from USDA that \$172,194 will be disallowed for each month these regulations are not implemented, retroactive to April 1, 1983, which totals more than \$2 million dollars. During a recent phone conversation between FNS and SDSS, FNS indicated that if the regulations are implemented by April 1, 1984, there would not be a disallowance of funds.
2. The implementation of these new federal rules will directly affect the allotment levels and the participation of households when an overissuance occurs, as well as govern the state's authority and responsibility to determine whether the household committed an intentional Program violation. Also, these rules control the amount of food stamps the household may receive during the period of disqualification, their right to an appeal, the penalties for an intentional Program violation, and the procedures which the state may employ to recoup food stamp overissuances. In addition to not having implemented federal requirements, Welfare and Institutions Code Section 18901 states that the eligibility of households shall be determined to the extent permitted by federal law. Therefore, SDSS is also not in compliance with state law.
3. Such a sanction could seriously impair the counties' ability to issue food stamp expeditiously, efficiently, and according to the standards required by federal law and regulations and the Welfare and Institutions Code. This is because the \$2 million dollar sanction was not considered when food stamp administrative costs were appropriated. Consequently, the Department would have no funds available to reimburse counties

for their administrative costs once the appropriation is exhausted. Since FNS will take these monies in a lump sum near the end of the state's fiscal year, the counties would have a limited time in which to make up this shortfall, thus causing them to drastically reduce their operations and services to recipients. Since slightly more than \$2 million per month of county welfare department (CWD) funds is required to administer the Food Stamp Program, the magnitude of this disallowance would cause serious problems.

Such a drastic reduction in CWD operations would result in the impairment of the delivery of services and benefits to recipients. For example, CWD staff layoffs, reduction in work hours, and the resultant substantial workload increases would result in a substantial adverse impact to recipients entitled to expedited food stamp issuance. This is the group of recipients that have no income and according to federal law and regulations (7 CFR 273.2(l)) and Welfare and Institutions Code Section 18914, are entitled to food stamp issuance within five days from their application date. For nonexpedited cases there would also be much slower application processing time frames most likely in excess of the mandated 30-day processing standard, which is required by both federal law and regulations (7 CFR 273.2(i)) and Welfare and Institutions Code Section 18911. This would seriously disadvantage the recipient population which needs the food stamps as a primary source of support. There would be a delay in processing reported changes which often benefits recipients, all of which would also be out of compliance with federal law and regulations (7 CFR 273.2(i)). A reduction in staff would also lead to probable increased errors, resulting in recipients not being treated according to the requirements of the program and possible federal sanctions when the error rate exceeds a certain level. In addition, if the above mentioned program requirements are not performed, future program compliance sanctions in those areas may also be levied.

4. Federal regulations (7 CFR Parts 272 and 273) published December 10, 1982, (Publication - 47 FR 55463) contained provisions for the treatment of sponsored aliens and their sponsors. The regulations, among other items, contained requirements for fraud disqualification and overpayment collection for the sponsored aliens and their sponsors. As the entire sponsored alien regulations were being reviewed by SDSS for regulation development, the new federal disqualification and overpayment regulations were published. In order to make the fraud and overpayment provisions of the December 10, 1982 sponsored alien regulations consistent with these disqualification and overpayment regulations both were

simultaneously developed and incorporated into the same state regulation package.

SDSS received the attached April 7, 1983 sanction letter from FNS regarding the timely filing of, among other items, the sponsored alien regulations. During discussions with FNS in August 1983, there was an understanding that the sponsored alien disqualification/overpayment provisions would be incorporated into the disqualification/overpayment collection regulations, and that is reflected in the ORD #783-47 submitted to OAL on March 2, 1984. To process sponsored alien disqualification and overpayment provisions later than this disqualification package would not alleviate a potential sanction on the sponsored alien regulations and it would not be consistent with the agreement with FNS.

5. Therefore, avoiding loss of federal funding would insure that food stamp households receive the benefits and service to which they are entitled under federal regulations. In addition, the state would be in compliance with both state and federal laws and regulations governing the Food Stamp Program.

INITIAL STATEMENT OF REASONS

a) General Purpose of the Regulations

These revisions to state food stamp regulations implement the provisions of federal regulations found in 7 CFR Parts 272.1; 273.1, .8, .9, .11, .13, .16, .17, and .18; and 276.2 which revise regulations on disqualification penalties, overissuance recoveries, restoration of lost benefits, and sponsored aliens.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Division 63

Section 63-040: This implementation order is being adopted to instruct county welfare departments (CWDs) when to apply the new standards and provisions contained within. These provisions are allowed as outlined in Welfare and Institutions Code Section 18904 and Government Code Section 11346.1(d).

Section 63-103.21(h): This section is to make specific the federal requirement that overissuance claims include those which result from intentional Program violation, and inadvertent household or administrative errors.

This revision is necessary to make language contained in this section consistent with federal regulations (7 CFR 273.18(a)). The words "fraud" and "nonfraud" have been deleted and replaced with the terms "intentional program violation," and "inadvertent household" or "administrative errors," respectively.

Section 63-402: This section is being amended to make specific the federal requirement that individuals disqualified for failure to obtain or provide a social security number, for committing an intentional program violation, for failure to comply with Workfare Program requirements, or for being an ineligible alien, are treated as "excluded household members."

The amendments are necessary to implement federal regulations 7 CFR 273.1(b)(2). In addition, nonsubstantive technical and renumbering changes have been made.

Section 63-501: This section is being amended to specify that resources belonging to excluded household members shall be

counted as available to the remaining household members. Such an amendment is necessary to implement federal regulations 7 CFR 273.8(J)(1) and (2), Federal Register, Vol. 48, No. 32, February 15, 1983.

Section 63-502: This section is being amended to specify that:

1. The income of those individuals disqualified for committing intentional Program violations, and those sanctioned while a participating member of a household disqualified for failure to comply with the CWD's Workfare Program requirements, shall be counted in its entirety as income to the remaining household members.
2. The income of individuals disqualified for failing to comply with the requirement to provide a social security number, and individuals disqualified for being an ineligible alien, shall be counted as income to the remaining household members, less a pro rata share for the individual.

Such amendments are necessary to implement federal regulations 7 CFR 273.9(b)(3).

In addition, nonsubstantive technical and renumbering changes are being made.

Section 63-503: This section is being amended to delete existing language because, as written current regulations treat the resources, income and deductible expenses of all disqualified persons in the same manner for determining household eligibility and benefit level and to revise the section to specify:

1. The requirements on determining the eligibility of food stamp benefits to households with members excluded (disqualified) for intentional Program violation, workfare sanction, ineligible alien, or for refusal or failure, without good cause, to obtain or provide a social security number.

The revision implements federal regulations 7 CFR 273.11(c), Federal Register, Vol. 48, No. 32, February 15, 1983.

In addition the Department has made nonsubstantive technical wording, renumbering, and reorganization changes.

Section 63-504: This section is being amended to make it consistent with federal regulations regarding exemption of an

adverse action notice when a household is converted from a cash or food coupon method of repaying an overissuance to an allotment reduction method of repayment after failure to make the previously agreed upon method of repayment.

In addition the Department has made nonsubstantive technical wording changes to Subsections 63-504.266(g) and •267(d).

The amendments and technical wording changes are necessary to implement and comply with federal regulations 7 CFR 273.13(b)(7) and (10), Federal Register, Vol. 48, No. 32, February 15, 1983.

Section 63-702: This section is being amended to make specific the federal requirement that CWDs are liable for cash losses when monies collected are not accounted for. This addition is necessary to implement federal regulations 7 CFR 276.2(c), Federal Register, Vol. 48, No. 32, February 15, 1983.

In addition nonsubstantive cross reference, technical wording, and renumbering changes have been made.

Section 63-801: This section is being revised to delete obsolete provisions on establishing, calculating, collecting, and suspending overissuance claims against households.

New language has been added to:

1. Specify the instances in which the CWD will establish claims against households and sponsors of alien households.
2. Specify time frames for establishing household claims.
3. Specify criteria for claim suspensions.
4. Specify the types of claims established against households.
5. Specify how the amount of a claim is to be calculated and collected.

These amendments are necessary to comply with and implement federal regulations 7 CFR 273.18(a) through (l), Federal Register, Vol. 48, No. 32, February 15, 1983, and 7 CFR 273.11(h)(8), Federal Register, Vol. 47, No. 238, December 10, 1982.

Sections 63-801: These sections are being repealed because they are inconsistent with federal requirements.

Section 63-801.1: Makes specific the federal requirement that sponsors of aliens and the sponsored alien, be held jointly and individually responsible for repayment of food stamp overissuances that result from incorrect information provided by the sponsor.

This adoption is necessary to comply with federal regulations (7 CFR 273.11(h)(8)).

Section 63-801.11: Contains no significant change, except for program terminologies, "inadvertent household" and "administrative errors" replaces "nonfraud errors" and "intentional Program violation claims" replaces "fraud claims."

The changes in terminology are necessary to comply with federal regulations (7 CFR 273.18(a)).

Section 63-801.121: Makes specific a new federal requirement that no claim shall be established for overissuances that result from a household's transaction of an expired, unaltered ATP or when the household failed to sign the application, failed to complete a current work registration form, or was certified in an incorrect county.

The adoption is necessary to comply with federal regulations (7 CFR 273.18(b) 3.

Section 63-801.2: Makes specific the federal requirement that all overissuance claims against household be handled as inadvertent household error claims, administrative error claims or intentional Program violation claims.

This section is necessary to comply with federal regulations (7 CFR 273.18(a)).

Section 801.21: Makes specific the federal required criteria for establishing inadvertent household error claims.

This section is necessary to comply with federal regulations (7CFR 273.18(b)).

Section 63-801.22: Makes specific the federal required criteria for establishing administrative error claims.

This section is necessary to comply with federal regulations (7 CFR 273.18(b)).

Section 63-801.23: This section makes specific the federal required criteria for establishing intentional Program violation claims.

This section is necessary to comply with federal regulations (7 CFR 273.18(a)(3)).

Section 63-801.3: Changes in Program terminologies have been made throughout this section. These amendments are necessary to be consistent and to comply with federal regulations (7 CFR 273.18(c)).

Section 63-801.321: Adoption of this section makes specific a federal requirement prohibiting the recovery of an overissuance due to an intentional Program violation which occurred in a month more than six years prior to the date the overissuance was discovered or prior to March 1, 1979.

This addition is necessary to comply with federal regulations (7 CFR 272.1(g)(ii) and 273.18(c)(2)).

Section 63-801.411: This section is being adopted to make specific the federal requirement that collection action for recovery of an inadvertent household error claim shall be initiated against the household or its sponsor, unless there is documentation that the sponsor cannot be located.

This change is necessary to comply with the federal regulations (7 CFR 273.11).

Section 63-801.413: This section makes specific the federal requirement that neither the sponsor of an alien, nor the sponsor's spouse will be held responsible for repayment of an overissuance to the alien household if the sponsor has good cause or was not at fault for providing the CWD with incorrect information.

This section is necessary to comply with the federal regulations (7 CFR 273.11(h)(8)).

Section 63-801.413(a) and (b): These subsections are being adopted to give interpretation to the "good cause" and "not at fault" provision in Section 63-801.413.

The interpretation is necessary to implement the federal requirement (7 CFR 273.11(h)(8)).

Section 63-801.42 and .421: These sections are being adopted to make specific the federal requirement that collection action for recovery of an overissuance caused by an

intentional Program violation shall be initiated against the individual household member or the household's sponsor, unless it is documented that the sponsor cannot be located.

These amendments are necessary to comply with the federal regulations (7 CFR 273.11(h)(8)(iv)).

Section 63-801.431: This section is being adopted to make specific the federal requirement that collection action shall be initiated by providing the household or its sponsor a written demand letter.

This provision is necessary to comply with federal regulations (7 CFR 273.18(d)(3)).

Section 63-801.431(a): This section is amended to make specific the federal requirement that the household or the sponsor against whom action is taken to collect an inadvertent household error claim or an intentional Program violation claim, shall be informed of the period of time in which to respond to the repayment demand letter and that failure to agree to restitution will result in an allotment reduction. The federal rules which require these amendments are contained in (7 CFR 273.18(d)(3)).

Section 63-801.431(b): This section is being adopted to make specific the federal requirement that households against which action has been initiated for collection of an administrative error claim, shall be informed of the allotment reduction as a method of overissuance repayment. Additionally, any household or sponsor of an alien household shall be informed of their right to renegotiate a previously agreed upon repayment schedule should there be a change in their economic circumstances.

These provisions are necessary to comply with federal regulations (7 CFR 273.18(d)(3)).

Section 63-801.431(b)(1): This section is being adopted to provide clarification to the "change in economic circumstances" as used in Section 63-801.

The amendment is necessary to implement the federal requirement (7 CFR 273.18(d)(3)).

Section 63-801.441: This section is being adopted to make specific the federal requirement that the allotment of a participating household shall be reduced on failure of the household or its sponsor to respond within 30 days from date of a written demand letter for repayment of an overissuance

claim caused by an inadvertent household error or intentional Program violation.

This provision is necessary to comply with federal regulations (7 CFR 273.18(d)(4)).

Section 63-801.511: This section contains no changes other than Program terminologies. These provisions are necessary to comply with federal regulations (7 CFR 273.18(e)).

Section 63-801.512: This section is being adopted to make specific the federal requirement that after initiating action against nonparticipating households or sponsors of such households, for collection of inadvertent household or administrative error claims (by sending at least one demand letter), further claim collection action shall be suspended when one or more of the conditions specified under paragraphs (a) through (d) of this section are met.

This provision is necessary to comply with federal regulations (7 CFR 273.18(e)).

Sections 63-801.62 and .63: These sections are being adopted to make specific the federal requirement that following a change in household membership after establishing an overissuance claim against a household for an inadvertent household or administrative error, or an intentional Program violation, collection action shall be initiated against the household containing a majority of the individuals who were household members at the time the overissuance occurred. If the majority member household cannot be located or determined, collection action shall be initiated against the head of the household at the time the overissuance occurred.

These amendments are necessary to comply with federal regulations contained in (7 CFR 273.18(f)).

Section 63-801.711: This section is being adopted to make specific the federal requirement which allows the household or the sponsor a choice of making a lump sum cash payment in settlement of an overissuance claim.

This amendment is necessary to comply with federal regulations (7 CFR 273.18(g)(1)).

Section 63-801.712: This section is being adopted to make specific the federal requirement which allows the household or the sponsor a choice of making a lump sum cash payment as a partial payment of an overissuance claim.

This amendment is necessary to comply with federal regulations (7 CFR 273.18(g)(1)).

Section 63-801.713: This section is being adopted to make specific the federal requirement which allows the household or the sponsor the choice of making a lump sum payment in food coupons as a full or partial payment of an overissuance claim.

This amendment is necessary to comply with federal regulations (7 CFR 273.18(g)(1)).

Section 63-801.721: This section is being adopted to make specific the federal requirement which allows the household or sponsor the choice of making a full or partial repayment of an overissuance claim by an installment schedule.

This amendment is necessary to comply with federal regulations (7 CFR 273.18(g)(2)).

Section 63-801.722: This section is being adopted to make specific the federal requirement that a notice of noncompliance shall be sent to any household or sponsor which fails to make a claim payment in accordance with an agreed to repayment schedule. And that the allotment shall be reduced of any participating household against which an inadvertent household error or intentional Program violation claim has been established unless there is agency contact to discuss renegotiation of the installment schedule.

The amendments are necessary to comply with federal regulations (7 CFR 273.18(g)(2)).

Sections 63-801.722(a)(1), (2), and (3): These sections are being adopted to make specific the federal required actions to be taken should any household or the sponsor fail to respond to a notice of noncompliance.

The amendments are necessary to comply with federal regulations (7 CFR 273.18(g)(2)(iv)).

Section 63-801.723: This section is being adopted to make specific the federal requirement to be made by monthly installments on household inadvertent error and intentional Program claims, shall not be less than the amount that could be recovered through allotment reduction. Additionally, once negotiated, the amount of the monthly installment payments shall not be changed because of subsequent changes in the household's monthly allotment.

This section is necessary to comply with federal regulations (7 CFR 273.18(g)(2)(v)).

Section 63-801.731: This section is being adopted to make specific the federal requirement that allotment reduction be invoked against households which fail to respond within 30 days of the date a demand letter is sent to the household for repayment of an inadvertent household or intentional Program violation claim.

The amendment is necessary to comply with federal regulations (7 CFR 273.18(g)(3)).

Section 63-801.732: This section is being adopted to make specific the federal requirement that allotment reduction shall be used to collect administrative error claims, only if the household prefers this method of repayment.

This section is necessary to comply with federal regulations (7 CFR 273.18(g)(3)(ii)).

Section 63-801.733: This section is being adopted to make specific the federal requirement that prior to reducing their monthly allotment, the household be informed of the formula used to determine the amount of food stamps to be recovered each month.

This provision is necessary to comply with federal regulations (7 CFR 273.18(g)(3)).

Section 63-801.734: This section is being adopted to make specific the federal requirement that a household's food stamp allotment be reduced to recover any amounts of inadvertent household error and intentional Program violation claims not collected by lump sum cash or coupon repayment, or by scheduled installment repayments.

This section is necessary to comply with federal regulations (7 CFR 273.18(g)(3)).

Section 63-801.735: This section is being adopted to make specific the federal requirement that the \$10 minimum benefit level for households with one and two members applies to the allotment prior to the reduction.

This section is necessary to comply with federal regulations (7 CFR 273.18(g)(3)).

Section 63-801.737: This section is being adopted to provide specific direction to counties regarding the compromising of

claims not liquidated in three years. This regulation is necessary to comply with federal regulations in 7 CFR 273.18(g)(3).

Sections 63-801.738(a), (b), and (c): These sections are being adopted to make specific the federal required formula used to determine the amount of food stamps to be recovered each month through the reduction of a household's allotment in repayment of inadvertent household error, administrative error, and intentional Program violation claims.

These sections are necessary to comply with federal regulations (7 CFR 273.18(g)(3)).

Section 63-801.741: This section is being adopted to make specific the federal requirement that in cases where a household moves out of state, collection action shall be initiated or continued against the household for recovery of any overissuance by the state of jurisdiction when the overissuance occurred.

This section is necessary to comply with federal regulations (7 CFR 273.18(l)).

Section 63-801.742: This section is being adopted to interpret the federal requirements on claim collections as related to households which have moved out of the county of jurisdiction.

This is necessary in order that the federal requirement in 7 CFR 273.18(l) be implemented at the county administrative level.

Section 63-801.81: This section has been added to make specific the federal requirement that counties retain the full value of funds collected in repayment of overissuance claims subject to adjustments of the federal/state share of the funds collected.

This section is necessary to comply with federal regulations (7 CFR 273.18(h)).

Section 801.82: This section is being adopted to make specific federal requirements on reporting the status of claims against households. This section is necessary to comply with federal regulations (7 CFR 273.18(h)(2)).

Section 63-801.83: This section is being adopted to make specific the federal requirement that pending a determination of intentional Program violation by an administrative hearing

or court hearing, the county may retain any amounts collected on the claim at the incentive rate applicable to intentional Program violations.

This is necessary to comply with federal regulations (7 CFR 273.18(h)(3)).

Section 63-801.85: This section is being adopted to make specific the federal requirement that coupons or coupon books collected from households as payment for overissuance claims shall be destroyed and not returned to inventory; and that accounting procedures shall be established by the state regarding the collection methods.

This section is necessary to comply with federal requirements 7 CFR 273.18(i) and (k).

Section 63-801.9: This section is being adopted to make specific the federal requirements to report claims against households and to establish appropriate accounting systems.

This is necessary to comply with federal regulations (7 CFR 273.18(h)(2) and (k)).

Sections 63-805.1 through .3: The existing sections are being repealed to delete material which is repetitious of material contained in SDSS regulations Division 20.

Section 63-805.1: This new section is being adopted to provide a cross reference to the location of provisions governing the disqualification penalties, administrative and court ordered disqualifications, CWD responsibilities and reporting requirements, and other related material.

Section 63-805.2: This section is being renumbered and amended to make technical nonsubstantive wording changes only.

Sections 63-805.5 through .64: These sections are being repealed to delete material which is repetitious of material contained in SDSS regulations Division 20.

Section 63-805.3: This section is being renumbered and amended to make technical nonsubstantive wording changes only.

#### Division 20, Chapter 20-300

A new Chapter 20-300 is being adopted to define an intentional Program violation, describe the county's responsibilities in investigating and referring violations to the appropriate entity, describe and establish time frames for

disqualification penalties, and establish procedures to be followed by the county in reporting intentional Program violations to the state as follows:

1. Section 20-300.1: This section is necessary to define as specified in federal food stamp regulations, 7 CFR 273.16(c), Federal Register, Vol. 48, No. 32, February 15, 1983.
2. Section 20-300.2: The state is responsible for investigating cases of alleged intentional Program violations and, if appropriate, ensure that proper subsequent action is taken as specified in 7 CFR 273.16(a), Federal Register, Vol. 48, No. 32, February 15, 1983. This section is necessary to specify the counties' responsibility in investigations and referrals of intentional Program violations.

Section 20-300.21 is added to clarify and make specific the manner in which CWDs will carry out their responsibility for investigating cases suspected of intentional Program violations. This section is necessary to implement the federal requirement in 7 CFR 273.16(a).

3. Section 20-300.3: This section is necessary to define disqualification penalties as the penalties provided for in federal food stamp regulations, 7 CFR 273.16(b), Federal Register, Vol. 48, No. 32, February 15, 1983.
4. Section 20-300.4: Time frames for the state imposition of disqualification penalties are provided in 7 CFR 273.16(g)(2), Federal Register, Vol. 48, No. 32, February 15, 1983. This section is necessary to provide county time frames for imposing disqualification penalties.

Section 20-300.411 is added to clarify the time frame for taking disqualification action as described in Section 20-300.41. This clarification is necessary to implement the federal requirement in 7 CFR 273.16(e)(8) and is consistent with state regulation Section 63-605.321.

5. Section 20-300.5: The state's responsibilities for reporting information concerning individual disqualified for an intentional Program violation to Food and Nutrition Services is described in 7 CFR 273.16(i), Federal Register, Vol. 48, No. 32, February 15, 1983. This section is necessary to establish procedures to be followed by the counties in reporting to the state.

Division 22. Chapter 22-200

This chapter is being amended as necessary to bring those regulations governing food stamp administrative disqualification hearings into conformance with 7 CFR, Part 273. The following amendments have been made:

1. The word "fraud" is being removed from the regulations and the new term "intentional Program violations" substituted.
2. The term "administrative fraud hearings" is being deleted from the regulations and the term "administrative disqualification hearing" substituted.
3. Sections 22-001.4, .5, .7, .8, and .13: These definitions are being revised to include cross references to administrative disqualification hearings and to update terminology as used in revised Chapter 22-200, "Administrative Disqualification Hearings."
4. Section 22-202.31(1): This section is being amended to include a warning to the respondent that any request for a postponement of hearing must be made 10 days prior to the date of the scheduled hearing.
5. Section 22-202.31(5): This section is being amended to include a warning to the respondent that an individual found to have committed an intentional Program violation shall be ineligible to participate in the Food Stamp Program for six months for the first violation, 12 months for the second violation, and permanently for the third violation.
6. Section 22-230.1: The word "resolved" has been deleted from this section and replaced with the word "mailed" to more accurately reflect the federal requirement that the state has conducted the hearing, arrived at a decision, and notified the household member of the decision within a specified time period. The word change is necessary to implement the intent of the above cited requirement in 7 CFR 273.16(e)(iv).
7. Section 22-240.11: This section is being added to clarify the fact that an administrative disqualification hearing can be combined with a regular state hearing if the statute of issues arrives out of the same or related circumstances and the household receives prior notice that the hearings will be combined.

8. Section 22-240.16: This section is being adopted to inform the respondent that if a state hearing is consolidated under Subsection .11, the respondent shall lose the right to a subsequent state hearing on the amount of the claim.
9. Miscellaneous nonsubstantive reformatting and renumbering changes are being made for clarity.

c) Identification of Documents Upon Which Department Is Relying

Federal Registers, Vol. 47, No. 238, December 10, 1982; Vol. 48, No. 32, February 15, 1983; and Vol. 48, No. 76, April 19, 1983; containing 7 CFR Part 272.1; 7 CFR Parts 273.1, .8, .9, .11, .13, .16, .17, and .18; 7 CFR Part 276.2; letter dated April 7, 1983 to Jerold A. Prod, Interim Director, SDSS from the Food Nutrition Service/Western Region signed by R. Hicks Elmore; and letter dated February 14, 1984 to Linda S. McMahon, Director, SDSS from Food Nutrition Service/Alexandria, Virginia signed by Robert Leard.

d) Local Mandate Statement

These regulations do constitute a mandate to local agencies but not to any school district. There are no state mandated local costs in this order that require reimbursement under Section 2231 of the Revenue and Taxation Code because this order does not increase program or service levels above that which is required by the federal government.

e) Statement of Potential Cost Impact on Public Agencies, Private Persons, or Entities Directly Affected

The Department of Social Services finds that the adoption of these regulations will result in no cost impact on public agencies, private persons, or entities directly affected.

f) Small Business Impact Statement

The Department of Social Services finds that the amendment of these regulations will not have a significant adverse economic impact on small businesses.

Adopt Section 63-040 as shown:

63-040 IMPLEMENTATION OF DISQUALIFICATION PENALTIES  
OVERRUSSUANCE RECOVERIES

63-040

Sections 63-103, 63-402, 63-501, 63-502, 63-503, 63-504, 63-702, and 63-805 and Division 22, Chapters 22-200, 22-201, 22-202, 22-210, 22-220, 22-230, and 22-240 as amended, and Sections 63-502.13 and .14, 63-503.44, 63-801, 63-805.1 and Division 20, Chapter 300 as adopted herein, shall become effective April 1, 1984 and implemented as follows.

- .1 Effective April 1, 1984, the revised and newly adopted provisions shall be applied to all new applications.
- .2 Currently certified cases shall be converted to the revised and newly adopted provisions on handling the income and resources of individuals disqualified for intentional Program violations, and recovery of household overissuance claims at the time of recertification or at anytime the casefile is reviewed prior to recertification, whichever is earlier.
- .3 The provisions in Division 20, Chapter 20-300, and Section 63-805.1 on Program disqualification for intentional Program violations shall be applied to certified households from the effective date of these regulations. However, the disqualification penalties shall apply only to individuals for acts of intentional Program violation which occurred during a certification period after the household has been notified of the new disqualification penalties.
- .4 The reporting requirements in Division 20, Section 20-300.5 shall become effective April 1, 1984. CWDs shall by no later than June 1, 1984, report to Food and Nutrition Service/Western Regional Office information required to complete the Disqualified Recipient Report Form (FNS 524) for individuals disqualified by an Administrative Disqualification hearing or a court of appropriate jurisdiction under the fraud disqualification regulations in effect prior to the effective date of these regulations.
- .5 The submission requirements for Form DFA 209, Status of Claims Against Households, as provided in Section 63-801.82 shall be implemented beginning with the end of the April-June 30, 1984 quarter.

Authority: Welfare and Institutions Code Sections 10553, 18902,  
and 18904.

Reference: Welfare and Institutions Code Section 18904,  
Government Code Section 11346.1(d), and 7 CFR 272.1.

Amend Section 63-103.21(g) to read:

63-103 ADMINISTRATIVE AUTHORITIES (Continued)

.63-103

•2 State Agency Delegations to County Agencies (Continued)

•21 (Continued)

- g. Determining the amount of, and setting, adjusting, compromising, or denying all or part of any household overissuance claim which results from intentional Program violation, inadvertent household or CWD administrative error, fraudulent or nonfraudulent overissuances to participating households, subject to the standards in Section 63-801.

Authority: Welfare and Institutions Code Section 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.16.

Amend Section 63-402.2 and renumber subsections to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

\*2 Nonhousehold Members and Excluded Household Members

.21 Nonhousehold Members

The following individuals residing with a household shall not be considered nonhousehold members in determining the household's eligibility or allotment. Their income and resources shall not be considered available to the household except as otherwise provided in Section 63-503.45. Nonhousehold members who are otherwise eligible may participate in the Food Stamp Program as separate households.

\*2t .211 Roomers

Individuals to whom a household furnishes lodging, but not meals, for compensation.

\*22 .212 Live-in Attendants

Individuals who reside with a household to provide medical, housekeeping, child care, or other similar personal services.

\*23 Ineligible aliens: Individuals who do not meet the citizenship or eligible alien status in Section 63-403.

\*24 .213 SSI Recipients

No person receiving Supplemental Security Income/State Supplementary Program (SSI/SSP) payments is eligible to receive food stamp benefits. Under the provisions of PL 95-458: 1) most California SSI/SSP recipients receive as part of their SSI/SSP benefit a cash amount in lieu of food stamp benefits; 2) all SSI/SSP recipients in California are ineligible to receive food stamps. A person must actually receive, not merely have applied for, SSI/SSP benefits to be determined ineligible for the Food Stamp Program. If the county CWD provides payments at least equal to the level of SSI/SSP benefits to persons who have been determined eligible for SSI/SSP awaiting receipt of SSI/SSP benefits, receipt of these substitute payments will terminate

Food Stamp Program eligibility. Once receiving SSI/SSP benefits, the person will remain ineligible for food stamp benefits until actually terminated from the SSI/SSP Program; periods of nonreceipt or suspension of SSI/SSP payments do not restore food stamp eligibility. (For treatment of income and resources, see Section 63-503-55.)

\*25 .214 Students

Persons enrolled in an institution of higher education who are ineligible because they fail to meet the eligibility criteria set forth in Section 63-406.2

\*26 Disqualified individuals. Individuals disqualified for fraud, as set forth in Section 63-805, and individuals disqualified for failing to comply with Social Security requirements set forth in Section 63-404-4.

\*27 .215 Others

Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household. For example, if the applicant household shares living quarters with another family to save on rent but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household. Also, an individual or family which, because of a temporary loss of income, was forced to move into the home of friends or relatives. Under such circumstances, that person or family which customarily purchases food and prepares meals separately, from the household that took them in could apply as a separate household.

\*28 Any individual who is 18 years of age or older who refused to disclose his/her Social Security account number or provide proof of application to the Social Security Administration for such number at the time of initial or subsequent certifications. (See 63-404-11 for exceptions)

.22 Excluded Household Members

The following individuals residing with a household shall be excluded from the household when determining the household's size for the purpose of assigning a monthly allotment to the household or of comparing the household's monthly income with the income eligibility standards.

However, the income and resources of excluded household member(s) shall be considered available to the remaining household members in accordance with Section 63-503.44. Excluded household members shall not participate in the Food Stamp Program as separate households.

•221 Ineligible Aliens

Individuals who do not meet the citizenship or eligible alien status in Section 63-403.

•222 SSN Disqualified

Individuals disqualified for refusal or failure, without good cause, to provide or obtain an SSN as required in Section 63-404.4.

•223 Intentional Program Violation Disqualified

Individuals disqualified for committing act(s) of intentional Program violation, as set forth in Section 63-805.

•224 Workfare Sanctioned

Individuals sanctioned by a CWD while a participating member of a household disqualified for failure to comply with the CWD's Workfare Program requirements.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.1(b), 273.8(j), and 273.16(b).

Amend Section 63-501.7 and adopt new Section 63-501.9 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.7 Resources of Nonhousehold Members

The resources of nonhousehold members, as provided in Section 63-503.55 as defined in Section 63-402.21, shall not be counted as available to the household, unless the member is disqualifed from the program in accordance with Section 63-805 for fraud or is qualified from the program for failing to comply with the Social Security Number requirement of Section 63-404.4 or is considered an ineligible alien in accordance with Section 63-403.

\*71 Has been repeated per Manual Letter No. 80-37.

\*72 Has been repeated per Manual Letter No. 80-37.

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.9 Resources of Excluded Household Members

The resources of excluded household members, as defined in Section 63-402.22, and as provided in Section 63-503.44 shall be counted as available to the remaining household members.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.8(j).

Repeal Section 63-502.13; renumber Section 63-502.14; and adopt new Sections 63-502.13 and 502.14 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

63-502

.1 Income Definition (Continued)

- \*13 The earned or unearned income of an individual disqualified from the household for fraud in accordance with Section 63-805 or for failing to comply with the Social Security Number requirement of Section 63-404, shall continue to be counted as income less the pro rata share for the individual. Procedures for calculating this pro rata share are described in Section 63-503.5.
- \*13 The earned or unearned income of the following individuals shall be counted in its entirety as income to the remaining household members.
  - \*131 Individuals disqualified from household participation for committing intentional Program violations as provided in SDS's Manual of Policies and Procedures, Division 20, Chapter 20-300.
  - \*132 Individuals sanctioned by a CWD while a participating member of a household disqualified for failure to comply with the CWD's Workfare Program requirements.
- \*14 The earned or unearned income of the following individuals shall be counted as income to the remaining household members, less a pro rata share for the individual. Procedures for calculating this pro rata share shall be in accordance with Section 63-503.442.
  - \*141 Individuals disqualified from households for failing to comply with the SSN requirements in accordance with Section 63-404.4.
  - \*142 Individuals disqualified from households for being an ineligible alien in accordance with Section 63-403.2.
- \*14.15 Income shall not include the following:
  - \*14.151 Monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source,

provided that the overpayment was not excludable under Section 63-502.2.

#42.152 Child support payments received by AFDC recipients which must be transferred to the agency administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR, Section 273.11(c)

Repeal Section 63-503.44.

63-503 DETERMINING HOUSEHOLD ELIGIBILITY  
AND BENEFIT LEVELS (Continued)

63-503

.4 Households with Special Circumstances (Continued)

.44 Disqualified Members and Ineligible Aliens

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The resources and income of individual household members disqualified for fraud or for refusal to cooperate in providing verification of or proof of application for a Social Security Number (SSN), and of an ineligible alien who would be considered a household member if not for his/her ineligible alien status, shall be considered available to the household as follows:

.441 Resources

The resources of the disqualified member or ineligible alien shall continue to count in their entirety to the remaining household members.

.442 Income

A pro rata share of the income of the disqualified member or ineligible alien shall be counted as income to the remaining household members. This pro rata share shall be calculated by first subtracting the allowable exclusions (See Section 63-502.2) from the disqualified member's or ineligible alien's income and dividing the remainder evenly among the household members and the disqualified member or ineligible alien. All but the disqualified member's or ineligible alien's pro rata share shall be counted as income to the remaining household members.

.443 Deductible Expenses

The earned income deduction (see Section 63-502.32) shall apply to the prorated income earned by the disqualified member or ineligible alien which is attributed to the household. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member or ineligible alien shall be divided evenly among the household members and the

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disqualified member or ineligible alien. All but the disqualified member's or ineligible alien's pro rata share shall be counted as a deductible shelter expense for the remaining household members. Utility expenses shall be prorated only when actual expenses are claimed. The standard utility allowance (SUA) shall not be prorated, but the remaining household members must be entitled to claim the SUA (see Section 63-502.352).

**.444 Eligibility and Benefit Level**

The disqualified member or ineligible alien shall not be included when determining the household size for purposes of assigning an allotment to the household or for purposes of comparing the household's gross or net monthly income with the appropriate income eligibility standards (see Section 63-503.32).

**.445 Reduction or Termination of Benefits Within the Certification Period**

Whenever an individual is disqualified within the household's certification period, the CWD shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information on the CA 7 and in the case file and shall take the following action:

**(a) Fraud Disqualification**

If a household's benefits are reduced or terminated within the certification period because one of its members has been disqualified for fraud, the CWD shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of its disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

**(b) Social Security Number Disqualification**

If a household's benefits are reduced or terminated within the certification period because one of its members has been disqualified for refusing to cooperate in providing his/her social security account

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~~number or verification of application for a social security number as required in Section 63-404, the CWD shall issue a notice of adverse action which informs the household that one of its members is being disqualified, the reason for the disqualification, the eligibility and benefit levels of the remaining members, and what must be done to end the disqualification.~~

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Sections 18901 and 18902; and 7 CFR, Sections 273.11(c), 273.13(b), and 273.16(e).

Adopt new Section 63-503.44 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY  
AND BENEFIT LEVELS (Continued)

63-503

.4 Households with Special Circumstances (Continued)

.44 Treatment of Income and Resources of Excluded Members

During the period of time that excluded household members, as specified in Sections 63-402.221, .222, .223, and .224, are ineligible to participate, the eligibility and benefit of any remaining household members shall be determined in accordance with Sections 63-503.441, .442, and .443.

.441 Members Excluded for Intentional Program Violation Disqualification or Workfare Sanction

The eligibility and allotment of any remaining household members of a household containing individuals excluded because of disqualification for intentional Program violation or imposition of a sanction while they were residing in a Workfare Program project area and participating as a member of a household disqualified for failure to comply with the workfare requirements, shall be determined as follows:

(a) Income, Resources, and Deductible Expenses

The income and resources of the excluded household member(s) shall continue to be counted in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(b) Eligibility and Benefit Level

The excluded member shall not be included when determining the household's size for the purposes of:

(1) Assigning a monthly allotment to the household;

- (2) Comparing the household's monthly income with the income eligibility standards; or
- (3) Comparing the household's resources with the resource eligibility limits. The CWD shall ensure that no household's coupon allotment is increased as a result of the exclusion of one or more household members.

•442 Members Excluded for Other Causes

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being ineligible aliens or because of disqualification for refusal or failure without good cause to obtain or provide an SSN shall be determined as follows:

(a) Resources

The resources of such excluded members shall continue to count in their entirety to the remaining household members.

(b) Income

A pro rata share of the income of such excluded members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the excluded member's income and dividing the remaining income evenly among the household members, including the excluded members. All, but the excluded members' share is counted as income for the remaining household members.

(c) Deductible Expenses

The earned income deduction shall apply to the prorated income earned by such excluded members which is attributed to the household. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the excluded members shall be divided evenly among the household's members including the excluded members. All but the excluded members' share is counted as a deductible shelter expense for the remaining

household members. Proration of utility expenses shall be applied when actual amounts are claimed. The standard utility allowance (SUA) shall also be prorated, if the household is using the SUA. (See Section 63-502.361.)

(d) Eligibility and Benefit Level

Such excluded members shall not be included when determining their households' sizes for the purposes of:

- (1) Assigning a benefit level to the household;
- (2) Comparing the household's monthly income with the income eligibility standards; or
- (3) Comparing the household's resources with the resource eligibility limits.

.443 Reduction or Termination of Benefits Within the Certification Period

Whenever an individual is excluded within the household's certification period, the CWD shall determine the eligibility or ineligibility of the remaining household members.

(a) Members Excluded for Intentional Program Violation Disqualification

If a household's allotment is reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional Program violation, the CWD shall notify the remaining members of their eligibility and monthly allotment at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a timely notice but may request a state hearing to contest the reduction or termination of benefits, unless the household has already had a state hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the state hearing.

(b) Members Excluded for Other Causes

If a household's allotment is reduced or terminated within the certification period because one or more of its members is an ineligible alien or was sanctioned while they were participating as a household member in a Workfare Program project area and the household was disqualified for failure to comply with the Workfare Program requirements, or was disqualified for refusal or for failure without good cause to obtain or provide an SSN, the CWD shall issue a notice of change (DFA 377.4), in accordance with Section 63-504.24 which shall inform the household of the exclusion, the reason for the exclusion, the eligibility and monthly allotment of the remaining members and the actions the household must take to end the disqualification.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.11(c), 273.13(b), and 273.16(e).

If a household's allotment is reduced or terminated within the certification period because one or more of its members is an ineligible alien or was sanctioned while they were participating as a household member in a Workfare Program project area and the household was disqualified for failure to comply with the Workfare Program requirements, or was disqualified for refusal or for failure without good cause to obtain or provide an SSN, the CWD shall issue a notice of change (DFA 377.4), in accordance with Section 63-504.24 which shall inform the household of the exclusion, the reason for the exclusion, the eligibility and monthly allotment of the remaining members and the actions the household must take to end the disqualification.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.11(c), 273.13(b), and 273.16(e).

Amend Section 63-503.476 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY  
AND BENEFIT LEVELS (Continued)

63-503

•4 Households with Special Circumstances (Continued)

•47 Residents of Drug/Alcohol Treatment and Rehabilitation Programs

•476 The institution shall be responsible for any misrepresentation or fraud intentional Program violation which it knowingly commits in the certification of center residents. As an authorized representative, the institution must shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The institution shall be strictly liable for all losses or misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901, and 7 CFR Sections 273.11(e) and 273.16(e).

Amend Sections 63-504.266(g) and .267(d) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

.2 Notices of Action (Continued)

.26 Notice of Change (DFA 377.4) (Continued)

.266 Exemptions from Providing Notice (Continued)

No notice shall be required when: (Continued)

(g) Converting a household from voluntary repayment of a fraud claim to benefit allotment reduction as a result of failure to make agreed to repayments, as provided in Section 63-801.612.72.

.267 Exemptions from Providing Timely Notice (Continued)

The CWD shall provide an adequate only notice at the time of the allotment change when: (Continued)

(d) A household member is disqualified for fraud intentional Program violation, in accordance with Section 63-805 SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300, or the benefits allotments of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by fraud intentional Program violation disqualifications are explained in Section 63-805. shall be in accordance with SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.13(b).

Adopt new Section 63-702.3; and renumber current Sections 63-702.3 and .4 to 702.4 and .5 to read:

63-702 LIABILITIES (Continued)

63-702

.3 Cash Losses

CWDs are liable for cash losses when monies collected from overissuance claims have been lost, stolen, or otherwise not accounted for in accordance with the provisions in Section 63-801.8.

.3.4 Liability Check List

.3.4.1 Coupons

\*3.4.11 Lost, stolen, embezzled coupons and unexplained shortages - see Section 63-705.72.

\*3.4.12 Coupons in possession of issuance agent - see Section 63-603.19.

.4.5 Photo ID

\*4.5.1 CWDs shall include in any contract or agreement with an issuing agent a provision establishing the agent's strict liability to SDSS for the face value of coupons issued in any ATP transaction when:

\*4.5.11 the ATP is found to have been stolen or otherwise not received by the household and

\*4.5.12 the CWD or issuing agent's cashier has not recorded the serial number of the photo ID card on the ATP, or the person presenting the ATP is not pictured on the ID card as specified in Sections 63-602.383 and .462.

\*4.5.2 CWDs shall be strictly liable for losses by CWD issuing agents where reconciliation shows noncompliance (see Section 63-702.41) with photo ID requirements.

\*4.5.3 The strict liability referred to in Section 63-702.41 shall apply (to counties or parts of counties) notwithstanding the fact that FNS previously granted waiver(s) of provisions of the photo ID requirements.

\*4454 In CWDs using an HIR system the strict liabilities conditions of Sections 63-702451, 452, and 453 apply in a like manner.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18902, 18904, and 7 CFR Section 276.2(c).

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Repeal Section 63-801.

63-801 CLAIMS AGAINST HOUSEHOLDS

63-801

•1 Establishing Claims Against Households

Each county shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive. Instances which may result in a claim include, but are not limited to, the following:

- 11 The household failed to provide the county with correct or complete information.
- 12 The household failed to report to the county changes in its household circumstances.
- 13 The household altered its ATP.
- 14 The household transacted both the original and its replacement ATP.
- 15 The county failed to take prompt action on a change reported by the household.
- 16 The county incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
- 17 The county incorrectly issued duplicate ATP's to a household which were subsequently transacted.
- 18 The household was found to be ineligible or eligible for fewer benefits than it received pending a fair hearing decision.

•2 Nonfraud Claims

Nonfraud claims are those claims established against households for overissuances which were not caused by fraud, such as, but not limited to, overissuances caused by administrative error on the part of the county or a misunderstanding or inadvertent error on the part of the household.

•21 Criteria for Establishing a Nonfraud Claim

If less than 12 months has elapsed between the month a nonfraud overissuance occurred and the month the county

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discovered a specific case involving an overissuance, the county shall take action to establish a claim against the household that received the overissuance. A nonfraud claim shall not be established if an overissuance occurred as a direct result of the following errors:

- 211 A county failed to ensure that a household fulfilled the following procedural requirements:
  - a. Signed the application form;
  - b. Completed a current work registration form;
  - c. Was certified in the correct project area;
- 212 A household continued to receive food stamp allotments after its certification period has expired without benefit of a reapplication determination, regardless of a subsequent determination of eligibility or ineligibility;
- 213 A household transacted an expired ATP, unless the household altered its ATP; or
- 214 A household did not receive food stamp benefits at a reduced level because its public assistance grant changed and the county failed to act.

•22 Calculating the Amount of the Nonfraud Claim

- 221 After excluding those months that are more than 12 months prior to the date the overissuance was discovered, the CWD shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect. In cases involving reported changes, the CWD shall determine the month the overissuance initially occurred as follows:
  - (a) If, due to a misunderstanding or inadvertent error on the part of the household, the household failed to report a change in its household circumstances, the first month affected by the household's failure to report shall be the first month. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances

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occurred. For monthly reporting households, a claim shall be established when the household fails to report a change on the CA 7 by the extended filing date for the appropriate report month. For nonmonthly reporting households, a claim shall be established if the household fails to report a change within 10 days of the date the change became known.

- (b) If the household timely reported a change, but the CWD did not timely act on the change, the first month affected by the CWD's failure to act shall be the first month the CWD should have made the change effective.

- 222 If the household received a larger allotment than it was entitled to receive, the county shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.
- 223 After calculating the amount of the nonfraud claim, the county shall offset the amount of the claim against any amounts which have not yet been restored to the household in accordance with Section 63-802.44. The county shall then initiate collection action for the remaining balance, if any.

•23 Collecting Nonfraud Claims

- 231 Counties shall initiate collection action on all nonfraud claims unless the claim is collected through offset or one of the following conditions apply:
  - a. The total amount of the nonfraud claim is less than \$35.
  - b. The county has documentation which shows that the household cannot be located.
- 232 Counties shall initiate collection action by sending the household a written demand letter, designed by FNS, which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the county's determination. In addition, the demand letter for nonfraud claims must include a statement which specifies that if a

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household falls behind in making payments or is unable to pay the claim, the household's eligibility or level of benefits will not be affected. FNS may grant deviations from the designed letter under conditions specified in Section 63-300.2. If the household pays the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined in Sections 63-801.6 and 63-801.7. If the household does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days, until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending collection action, as specified in paragraphs .24 and .25 of this section, have been met. The county may postpone collection action on nonfraud claims in cases where an overissuance is being referred for possible prosecution or for a fraud hearing and the county is advised in writing by the legal representative prosecuting the case that collection action will prejudice the case.

.24 Criteria for Suspending Collection of a Nonfraud Claim

A claim shall be suspended if no collection action was initiated because of conditions specified in Section .231. If collection action was initiated, and at least one demand letter has been sent, further collection action shall be suspended when:

- .241 The household is financially unable to pay the claim;
- .242 There is little likelihood that the household will pay the claim;
- .243 The household cannot be located; or
- .244 The cost of further collection action is likely to exceed the amount that can be recovered.

.25 Basis for Terminating Collection of a Nonfraud Claim

A claim shall be determined uncollectible after it is held in suspense for three years. A county may use an uncollectible claim to offset benefits in accordance with Section 63-802.44.

.3 Methods of Collecting Nonfraud Payments

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- 31 Counties shall collect nonfraud payments in one of the following ways:

- 311 Lump Sum

Counties shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum. The household shall not be required to liquidate its nonliquid resources as defined in Section 63-102, hh to make this repayment.

- 312 Installments

If the household has insufficient liquid resources as defined in Section 63-102, ii or is otherwise financially unable to pay the claim in one lump sum, a payment schedule shall be negotiated with the household. Payments shall be accepted by the county in regular installments. If the full amount of the claim cannot be liquidated in three years, the county shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in three years. A county shall use the full amount, including any amount compromised of the claim to offset benefits in accordance with Section 63-802.44.

- 313 Repayment with Coupons

A household may repay nonfraud claims by voluntarily returning food coupons. The receipt of returned coupons as repayment shall be documented in the household's case file and any other pertinent county record.

- a) Upon receipt of coupons the county shall cancel the coupons, by stamping "cancelled" across their face, and complete the Form FNS 135. The amount and reason of the return must be entered in the "remarks" section of the form.
- b) At the end of each month, all FNS 135s (affidavit of return or exchange of food coupons) which were completed during the month shall be totalled. This amount shall be added to line 5 (amounts collected by check, cash, or money order during the month) of the FNS 209 for that month. The total shall also be shown in the "remarks" section of the FNS 209 as the

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"total amount received in returned coupons". Copies of the FNS 135 must be attached to the FNS 209 when submitted to FNS.

- c) All cancelled coupons shall be stored at a secure location of destruction along with a copy of the FNS 135. These coupons shall be destroyed in accordance with Manual Section 63-601.4.

.32 Changes in Household Composition - Nonfraud

- .321 The county shall initiate collection against any individual who was head of the household during the time in which the nonfraud overissuance occurred.

If the head of the household is no longer living or cannot be located, the county shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

.4 Fraud Claims

A claim shall be handled as a fraud claim only if an administrative fraud hearing or a court of appropriate jurisdiction has found a household member committed fraud as defined below:

.41 Definition of Fraud

For purposes of determining at an administrative fraud hearing whether or not fraud was committed, fraud shall consist of any action by an individual to knowingly, willfully and with deceitful intent:

- .411 Make false statement to the county, either orally or in writing, to obtain benefits to which the household is not entitled;
- .412 Conceal information to obtain benefits to which the household is not entitled;
- .413 Alter ATP's to obtain benefits to which the household is not entitled;
- .414 Use coupons to buy expensive or conspicuous nonfood items such as alcohol or cigarettes;

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- 415 Use or possess improperly obtained coupons or ATP's; or
- 416 Trade or sell coupons or ATP's.
- 417 Sign and transact the original ATP which was reported lost, stolen or destroyed and signed the Replacement Request Affidavit (DFA 303). Such action shall result in the denial of the replacement ATP pending the hearing decisions.
- 418 Transact the original ATP with a falsified ID.

Prior to the determination of fraud, the claim against the household shall be handled as a nonfraud claim.

•42 Establishing a Fraud Claim

For each month that a household member fraudulently participated, the county shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the fraud claim shall be calculated back to the month the fraudulent act occurred, regardless of the length of time that elapsed until the determination of fraud was made. If the household member is determined to have committed fraud by knowingly, willfully and with deceitful intent failing to report a change in the households circumstances, the first month that benefits were overissued shall be the month after the month in which the change occurred. Once the amount of the fraud claim is established, the county shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with Section 63-802.44.

•43 Collecting Fraud Claims

- 431 If a household member is found to have committed fraud at either an administrative fraud hearing or a court of appropriate jurisdiction, the county shall send the individual a written agreement letter and if possible, complete a personal contact in order to seek restitution. The county shall initiate collection action unless the household has repaid the overissuance as a result of nonfraud demand letters, the county has documentation which shows the household cannot be located or the legal representatives prosecuting a member of the household for fraud advise in writing that collection action will prejudice the case. In cases where a household

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member was found guilty of fraud by a court, the county shall request the matter of restitution be brought before the court.

- 432 Collection action shall be taken by sending the household a written demand letter, designed by FNS, which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the county's determination of the amount of the claim. FNS may grant deviation from the designed demand letter under conditions specified in Section 63-300.2. A written demand letter for an unpaid or partially paid fraud claim shall be sent even if the household has previously received a nonfraud demand letter, because the time period covered and the methods of collection are by the claim is different for fraud and nonfraud claims. One month prior to the end of the period of disqualification, if the household member found guilty has not responded to the written agreement letter, the county shall send a subsequent notice advising the individual that he/she will remain disqualified and shall not be considered a household member until such time as an agreement to repay is executed.
  - 433 The individual who committed fraud or the remaining household members may begin restitution prior to or during the period of disqualification.
  - 434 If the county can document that the fraudulent individual cannot be located, collection action shall be suspended. A claim shall be determined uncollectable after it is held in suspense for three years. The county may use a suspended claim to offset benefits in accordance with Section 63-802.44.
- 5 County Review Officer

The County Review Officer (CRO) must be an employee of the county not associated with the certification and issuance process. The CRO is responsible for reviewing all completed claim determination reports. If no county employee can be designated as CRO due to county staffing limitations, the Food Stamp Program Management Branch, SDSS, will consider acting in the capacity of the CRO for the county.

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•6 Methods of Collecting Fraud Payments.

•61 Counties shall collect payments for fraud claims in one of the following ways:

•611 Reduction in food stamp allotment.

Prior to reduction, the county shall discuss with the household the amount of food stamps to be recovered each month. The amount of food stamps to be recovered each month shall be the lesser of 25 percent of the household's monthly allotment or the fraudulent individuals pro rata share of the allotment. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage. If the full amount of the claim cannot be liquidated in three years, the county shall compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. The county shall use the full amount of the claim to offset benefits in accordance with Section 63-802.44.

•612 Repayment in Cash

If the household member found guilty of fraud agrees to a repayment in cash, and the individual is financially able to repay the claim in full, the county shall collect the payment in one lump sum. However, if the household has insufficient liquid resources as defined in Section 63-102,ii or is otherwise unable to pay the claim in one lump sum, payments shall be accepted in regular installments. The household shall not be required to liquidate its nonliquid resources as defined in Section 63-102,hh to make this repayment. If the full amount of the claim cannot be liquidated in 3 years, the county may compromise the claim by reducing it to an amount that will allow the individual to pay the claim in 3 years. The county shall use the full amount of the claim (including any amount compromised) to offset benefits in accordance with Section 63-802.44.

If the household member fails to make a payment in accordance with the established cash repayment schedule (either a partial or no payment), the county shall send the individual a notice explaining that no payment or an insufficient payment was received. The notice shall also inform the individual that unless

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he or she makes the overdue payments or contacts the county to discuss renegotiation of the payment schedule, the county shall invoke allotment reduction without a notice of adverse action. If the individual fails to respond to the notice, the county shall invoke allotment reduction.

If the household does respond the county shall take one of the following actions:

- A) If the individual makes the overdue payments and wishes to continue payments based on the previous schedule, permit the individual to do so.
- B) If the individual requests renegotiation, and if the county concurs with the request, negotiate a new payment schedule and execute a new written agreement letter.
- C) If the individual requests renegotiation, but the county believes that the household's economic circumstances have not changed enough to warrant the requested change, the county may invoke allotment reduction or continue renegotiation until a settlement can be reached and executed. If allotment reduction is invoked, no notice of adverse action is required. (See Section 63-504.242);

.613 Repayment with Coupons

A household may repay fraud claims by voluntarily returning food coupons. The receipt of such coupons shall be documented in the household's case file any other pertinent county record. Further accounting and documentation of returned coupons shall be performed in accordance with Manual Section 63-801.313(a), (b), and (c).

.614 If the household member found guilty of fraud moves, resulting in a change in household membership, the county shall initiate collection action against the household currently containing the fraudulent individual.

.62 Counties may initiate civil court action to obtain payment of the claim prior to the end of the disqualification period. However, the county shall not deny, terminate or reduce a household's benefits for failure to repay a

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claim, to agree to a repayment schedule or to make the agreed upon payments, except for the allotment reduction which shall occur when repayment of a claim is beginning after the period of disqualification and the household member found guilty of fraud does not make agreed to cash repayments. Nor shall the county threaten the household with a denial, termination or reduction in benefits or otherwise infer that it has the power to do so.

.7 Submission of Payments

.71 No later than 30 days after the end of each calendar month, each county shall submit to FNS a single check, draft or warrant which consolidates all of the payments collected in the county during the previous month. Counties shall not allow more than 60 days to elapse between the date a household makes a payment on a claim and the date the payment is submitted to FNS. Each county shall also submit a monthly report (FNS 209) to FNS which details the county's activities relating to claims against households. This report is also due no later than 30 days after the end of each calendar month and shall be submitted even if the county has not collected any payments.

.72 In cases where FNS has billed a county for negligence, any amounts collected from households in payment of overissuances which were caused by the county's negligence will be credited by FNS. When submitting these payments, the county shall include a note in the remarks section of the FNS 209 which shows the amount that should be credited against the county's bill.

.8 Claims Discharged Through Bankruptcy

Counties shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamp claims. Counties shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distributions of assets, to the same extent as FNS. Acting as FNS, counties shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in paragraph .7 of this section.

.9 Accounting Procedures

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~~Each county shall be responsible for maintaining an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:~~

- ~~•91 Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension of termination or collection action.~~
- ~~•92 Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.~~
- ~~•93 Identify those households that have failed to make installment payment on their claims.~~
- ~~•94 Document how much money was collected in payment of a claim and how much was submitted to FNS.~~

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR, Section 273.18; and 7 CFR, Section 273.11(h).

Adopt new Section 63-801 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS

63-801

.1 Establishing Claims Against Households and/or Against Sponsors of Alien Households

The CWD shall establish a claim, in accordance with Section 63-801.2, against any household that has received more food stamp benefits than it is entitled to receive except as specified in Section 63-801.12. Any sponsor of an alien and the sponsored alien shall be held jointly and individually liable for repayment of any overissuance of food stamp benefits that results from incorrect information provided by the sponsor. In such cases, the CWD shall establish a claim against the sponsor or the alien household as provided in Section 63-801.13.

.11 Time Frame for Establishing Inadvertent Household Error, Administrative Error, and Intentional Program Violation Claims

The CWD shall take action, within the time frames of this section, to establish a claim against any household that received an overissuance due to an inadvertent household or administrative error. Intentional Program violation claims shall be established and handled in accordance with Section 63-801.23. The CWD shall take action on inadvertent household and administrative error claims for which up to 12 months have elapsed between the month the overissuance occurred and the month the CWD discovered the overissuance.

.12 No claim shall be established if an overissuance occurred as a result of the following:

.121 The CWD failed to ensure that a household fulfilled the following procedural requirements:

(a) Signed the application form;

(b) Completed a current work registration form;

(c) Was certified in the correct county.

.122 The household transacted, but did not alter an expired ATP.

.13 Claims Against Alien Households and Sponsors of Alien Households

- .131 The CWD shall hold the alien's household solely liable for repayment of an overissuance in benefits, and establish a claim against the household, if the CWD determines that the sponsor had good cause or was not at fault for providing the incorrect information that resulted in the overissuance.
- .132 If the CWD determines that the sponsor did not have good cause, or was at fault, in accordance with Section 63-801.413, the CWD shall decide whether to establish a claim for the overissuance against either the sponsor or the sponsored alien's household, or both. The CWD shall choose to establish claims against both parties at the same time or to establish a claim against the party it deems most likely to repay first. If a claim is established against the sponsor first, the CWD shall ensure that a claim is established against the household whenever the sponsor fails to respond to the CWD's Repayment Notice (DFA 377.7B) within 30 days of receipt. The CWD shall return to the sponsor and/or the household any amounts repaid in excess of the total amount of the claim (Claim Determination Worksheet, DFA 842).

.2 Types of Claims

The CWD shall categorize and account for all claims against households as inadvertent household error claims, administrative error claims, or intentional Program violation claims.

.21 Inadvertent Household Error Claims

A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household or the sponsor of an alien household. Instances of inadvertent household error which may result in a claim include, but are not limited to the following:

- .211 The household, or the sponsor unintentionally failed to provide the CWD with correct or complete information.
- .212 The household unintentionally failed to report to the CWD changes in household circumstances or the circumstances of its sponsor.

.213 The household unintentionally received benefits or more benefits than it was entitled to receive pending a state hearing decision because the household requested a continuation of benefits.

.22 Administrative Error Claims

A claim shall be handled as an administrative error claim if the overissuance was caused by the CWD. Instances of administrative error which may result in a claim include, but are not limited to the following:

.221 The CWD failed to take prompt action on a change reported by the household.

.222 The CWD incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.

.223 The CWD incorrectly issued duplicate ATPs which were subsequently transacted by the household.

.224 The CWD continued to provide a household with food stamp allotments after its certification period had expired without benefit of a reapplication determination.

.23 Intentional Program Violation Claims

.231 A claim shall be handled as an intentional Program violation claim only if an administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member or the sponsor had committed an intentional Program violation, as defined in Section 63-801.232. Prior to a determination of intentional Program violation the claim against the household shall be established and handled as an inadvertent household error claim.

.232 An act committing an intentional Program violation is defined as having intentionally:

(a) Made a false or misleading statement, or misrepresented, concealed, or withheld facts, or

(b) Committed any act which constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to

the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or ATPs.

.3 Calculating the Amount of Claims

.31 Inadvertent Household and Administrative Error Claims

.311 For each month that a household received an overissuance due to an inadvertent household or administrative error, the CWD shall determine the correct amount of food stamp benefits the household was entitled to receive. The CWD shall calculate the amount of the overissuance which occurred during the 12 months preceding the date the overissuance was discovered. In cases involving reported changes, the CWD shall determine the month the overissuance initially occurred as follows:

- (a) If, due to an inadvertent error on the part of the household, the household failed to report a change in its circumstances within the time frames required in Section 63-505, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been timely reported. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.
- (b) For monthly reporting households, a claim shall be established when the household fails to report a change on the CA 7 by the extended filing date for the appropriate report month. For nonmonthly reporting households, a claim shall be established if the household fails to report a change within 10 days of the date the change became known.
- (c) If the household timely reported a change, but the CWD did not act on the change within the required time frames, the first month affected by the CWD's failure to act shall be the first month the CWD would have made the change effective had it timely acted. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from

the month in which the change in household circumstances occurred.

- 312 If the household received a larger allotment than it was entitled to receive, the CWD shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.
- 313 After calculating the amount of the inadvertent household or administrative error claim, the CWD shall offset the amount of the claim against any amounts which have not yet been restored to the household as a restoration of lost benefits in accordance with Section 63-802.54. The CWD shall then initiate collection action for the remaining balance, if any.

## .32 Intentional Program Violation Claims

- 321 For each month that a household received an overissuance due to an act of intentional Program violation, the CWD shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional Program violation claim shall be calculated back to the month the act of intentional Program violation occurred, regardless of the length of time that elapsed until the determination of intentional Program violation was made. However, the CWD shall not include in its calculation any amount of the overissuance which occurred in a month more than six years from the date the overissuance was discovered or prior to March 1, 1979. If the household member is determined to have committed intentional Program violation by intentionally failing to report a change in its household's circumstances, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been reported. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.
- 322 If the household received a larger allotment than it was entitled to receive, the CWD shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

\*323 Once the amount of the intentional program violation claim is established, the CWD shall offset the claim against any amount of lost benefits that have not been restored to the household as lost benefits in accordance with Section 63-802.54.

\*4 Collecting Claims Against Households and Sponsors of Alien Households

\*41 Criteria for Initiating Collection Action on Inadvertent Household and Administrative Error Claims

\*411 CWDs shall initiate collection action against the household or the sponsor for all inadvertent household error claims, or the household for all administrative error claims, unless the claim is collected through offset or one of the following conditions apply:

- (a) The total amount of the claim is less than \$35, and the claim cannot be recovered by reducing the household's allotment.
  - (b) The CWD has documentation which shows that the household or the sponsor of an alien household cannot be located.
- \*412 The CWD may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible legal prosecution or for administrative disqualification, and the CWD determines that collection action will prejudice the case.
- \*413 Prior to initiating collection action against the household of a sponsored alien for repayment of an overissuance caused by incorrect information having been provided concerning the alien's sponsor or sponsor's spouse, the CWD shall determine whether such incorrect information was provided due to inadvertent error or intentional program violation on the part of the alien or the alien's sponsor. The CWD shall inform the alien's sponsor that neither the sponsor nor his/her spouse will be held responsible for repayment of the overissuance if the sponsor can demonstrate to the satisfaction of the CWD that he/she had good cause or was not at fault for the incorrect information having been provided the CWD.

- (a) A sponsor will be without fault or have good cause for not providing correct information only when the sponsor has met all of his/her responsibilities in providing correct information, but the alien has not.
- (b) A sponsor shall not be held at fault for a CWD administrative error.

.42 Criteria for Initiating Collection Action on Intentional Program Violation Claims

If an administrative disqualification hearing official or a court of appropriate jurisdiction finds that a household member or the sponsor of an alien household member committed intentional Program violation, the CWD shall initiate collection action against the individual's household or the sponsor of the alien household member. In addition, to the extent possible, the CWD shall make a personal contact with the household and/or its sponsor.

.421 The CWD shall initiate such collection unless:

- (a) the household has repaid the overissuance already,
- (b) the CWD has documentation which shows the household (and its sponsor, if an alien household), cannot be located, or,
- (c) the CWD determines that collection action will prejudice the case against a household member referred for legal prosecution.

.422 The CWD shall initiate collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of intentional Program violation by a court, the CWD shall request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and accused individual.

.43 Initiating Collection on Claims

.431 CWDs shall initiate collection action by providing the household or the sponsor of an alien household with a Repayment Notice (DFA 377-78) which informs

the household or its sponsor of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household or its sponsor may pay the claim, and the household's right to a state hearing if the household disagrees with the amount of the claim. Additionally, the notice shall state that if the household has already had a state hearing on the amount of the claim as a result of a consolidation of the administrative disqualification hearing with the state hearing, the household has no right to another state hearing on the amount of the claim. If there is an individual or organization available that provides free legal representation, the DFA 377.7B shall also advise the household of the availability of the services.

- (a) For inadvertent household error and intentional Program violation claims, the household, or the sponsor shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the CWD of its decision, and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution.
- (b) For administrative error claims, the household shall also be informed of the availability of allotment reduction as a method of repayment if the household prefers to use this method.
- (c) In addition, any household or sponsor against which the CWD has initiated collection action shall be informed of their right to request renegotiation of any repayment schedule to which the household or the sponsor has agreed should the economic circumstances of the household or the sponsor undergo a change.
  - (1) A change in economic circumstances shall include, but not be limited to, changes in income, resources, or expenses. A change in household allotment shall not constitute a change in economic circumstances.

•432 If the household pays the claim, payments shall be accepted and submitted to SDSS in accordance with the procedures outlined in Section 63-801.8.

.44 Action Against Households and Sponsors of Alien Households Which Fail to Respond

.441 The CWD shall reduce the household's food stamp allotment in accordance with Section 63-801.73 when:

- (a) Collection action has been initiated for against the household or the sponsor for repayment of an inadvertent household error or intentional Program violation claim; and
- (b) The household is currently participating in the Food Stamp Program; and
- (c) The household does not respond to the DFA 377.78 within 30 days of the date the notice is mailed, the CWD shall reduce the household's food stamp allotment in accordance with Section 63-801.73.

.442 If any nonparticipating or participating household against whom collection action has been initiated for repayment of an administrative error claim does not respond to the first DFA 377.78, additional repayment notices shall be sent at reasonable intervals, such as 30 days, until the household or the sponsor has responded by paying or agreeing to pay the claim (Repayment Agreement, DFA 377.7C), or until the criteria for suspending collection action, as specified in Section 63-801.5 have been met.

.5 Suspending and Terminating Collection of Claims

.51 Suspending Collection of Inadvertent Household and Administrative Error Claims

.511 If no collection action was initiated because of conditions specified in Section 63-801.411, an inadvertent household or administrative error claim shall be suspended.

.512 If collection action was initiated, and at least one demand letter has been sent, further collection action on any administrative error claim or on an inadvertent household error claim against a nonparticipating household or its sponsor shall be suspended when:

- (a) The household cannot be located; or

(b) The cost of further collection action is likely to exceed the amount that can be recovered.

.52 Suspending Collection of Intentional Program Violation Claims

.521 The CWD shall suspend collection action on intentional Program violation claims at any time if it has documentation that the household and/or the sponsor cannot be located.

.53 Terminating Collection of Claims

A claim shall be determined uncollectible after it is held in suspense for three years. The CWD shall use a suspended or terminated claim to offset a restoration of lost benefits in accordance with Section 63-802.54.

.54 Claims Discharged Through Bankruptcy

CWDs shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamp claims. CWDs shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, CWDs shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in Section 63-801.8.

.6 Change in Household Composition

.61 Inadvertent Household and Administrative Error Claims

The CWD shall initiate collection action against the household which received the overissuance for which the inadvertent household or administrative error claim was established. If a change in household membership occurs, the CWD shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred. If the CWD cannot locate or determine the household which contains a majority of household members, the CWD shall initiate collection action against the household containing the head of the household at the time the overissuance occurred.

## .62 Intentional Program Violation Claims

The CWD shall initiate collection action against the household which contained the household member found to have committed intentional Program violation and which received the overissuance for which the claim was established. If a change in household membership occurs, the CWD shall initiate collection action against the household containing a majority of the individuals who were household members at the time the act(s) of intentional Program violation occurred. If the CWD cannot locate or determine the household which contains a majority of the household members, the CWD shall initiate collection action against the household containing the head of the household at the time the overissuance occurred.

## .7 Method of Collecting Payments

As specified in Section 63-801.4, CWDs shall collect payments for claims against households as follows:

### .71 Lump Sum

- .711 If the household or the sponsor chooses to pay the claim at one time, the CWD shall collect a lump sum payment. The household shall not be required to liquidate its nonliquid resources as defined in Section 63-102(hh) to make this repayment.
- .712 If the household or the sponsor prefers to make a lump sum cash payment as partial payment of the claim, the CWD shall accept this method of payment.
- .713 If the household or the sponsor chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claim, the CWD shall accept this method of repayment.

### .72 Installments

- .721 The CWD shall negotiate a payment schedule with the household or the sponsor if the household or sponsor chooses this method for a full or partial repayment of the claim. Payments shall be accepted by the CWD in regular installments. The household may use food stamp coupons as full or partial payment of any installment. If the full amount of the claim cannot be liquidated in three years, the CWD shall compromise the claim by reducing it to an amount that

will allow the household to pay the claim in three years. A CWD shall use the full amount of the claim to offset any restoration of lost benefits due the household.

•722 If the household or the sponsor fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the CWD shall send the household or the sponsor a DFA 377.7B explaining that no payment or an insufficient payment was received. The notice shall inform the household or the sponsor that it may contact the CWD to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the CWD is contacted to discuss renegotiation of the payment schedule the allotment of a currently participating household against which an inadvertent household error or intentional Program violation claim has been established will be reduced without a timely notice and in accordance with procedures in Section 63-801.73.

- (a) If the household, or the sponsor responds to the notice, the CWD shall take one of the following actions as appropriate:
  - (1) If the household or the sponsor makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household or the sponsor to do so;
  - (2) If the household or the sponsor requests renegotiation, and if the CWD concurs with the request, negotiate a new payment schedule DFA 377.7C;
  - (3) If the household or the sponsor requests renegotiation of the amount of its repayment schedule, but the economic circumstances of the household or the sponsor have not changed enough to warrant the requested settlement, the CWD may continue renegotiation until a settlement can be reached. The CWD may invoke allotment reduction against a currently participating household for repayment of an intentional Program violation claim if a settlement cannot be reached.

(b) If the household or the sponsor fails to respond, the CWD shall invoke allotment reduction. If allotment reduction is invoked, no further notice is required.

•723 In cases where the household is currently participating in the Food Stamp Program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional Program violation claim, the CWD shall ensure that the negotiated amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, the CWD, the household, or the sponsor shall have the option to initiate renegotiation of the payment schedule if they believe that the economic circumstances of the household or the sponsor have changed enough to warrant such action.

#### •73 Reduction in Food Stamp Allotments

•731 CWDs shall collect repayments for an inadvertent household error claim or an intentional Program violation claim from a household currently participating in the Program by reducing the household's food stamp allotments as provided in Section 63-801.44.

•732 CWDs shall collect payments for an administrative error claim from a household currently participating in the Food Stamp Program by reducing the household's food stamp allotments if the household prefers to use this method of repayment.

•733 Prior to reduction, the CWD shall inform the household of the appropriate formula provided in Section 63-801.738, for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment (i.e., the amount of food stamps the CWD expects will be recovered each month), and of the availability of other methods of repayment (DFA 377.7C).

•734 If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial payment of the claim, the CWD shall accept this

method of payment. The CWD shall reduce the household's allotment in accordance with Section 63-801.738, to recover any amounts of an inadvertent household error or intentional Program violation claim not repaid through a lump sum cash and/or food stamp coupon payment, unless a payment schedule has been negotiated with the household.

- .735 The provision in Section 63-503.325 for a \$10 minimum benefit level for households with one and two members only, shall apply to the allotment prior to the reduction.
- .736 The CWD shall use the full amount of the claim to offset any restoration of lost benefits.
- .737 For intentional Program violation claims, if the full amount of the claim cannot be liquidated in three years the CWD shall compromise the claim by reducing it to an amount that will allow the household to make restitution within three years.
- .738 The amount of food stamps to be recovered each month through allotment reduction shall be determined in accordance with the following procedures and the calculated figure rounded as specified in Section 63-503.31.

(a) Inadvertent Household Error Claims

For inadvertent household error claims, the amount of food stamps recovered shall be 10 percent of the household's monthly allotment or \$10 per month, whichever is the greater amount.

(b) Administrative Error Claims

For administrative error claims, the amount of food stamps to be recovered each month from a household choosing to use this method shall be negotiated with the household. Choice of this option is entirely up to the household and no household shall have its allotment reduced by an amount with which it does not agree for payment of an administrative error claim.

(c) Intentional Program Violation Claims

For intentional Program violation claims, the amount of food stamps shall be 20 percent of

the household's monthly allotment or \$10 per month, whichever is the greater amount.

.74 Interstate/Intercounty Claims Collection

- .741 In cases where a household moves out of state, the CWD shall initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the state's jurisdiction. The CWD which overissued benefits to the household shall have the first opportunity to collect any overissuance. However, if the CWD which overissued benefits to the household does not take action to collect as soon as administratively possible, then the government agency which administers the area into which the household moves may initiate action to collect the overissuance. Prior to initiating action to collect claims against households which have moved into the state, the CWD shall contact the agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The claim collection incentive shall be retained by the CWD which collects the overissuance.
- .742 In cases where a household moves from one county to another within the state, the CWD in the county where the overissuance occurred shall initiate or continue collection action against the household. If the CWD in the county where the household was overissued benefits is unable to take action to collect, then the CWD in the county of the household's new residence shall initiate action to collect the overissuance. However, prior to initiating action to collect such overissuances, the CWD in the household's new county of residence shall contact the CWD in the county where the overissuance occurred to ascertain that it is unable to pursue collection action. The claim collection incentive is retained by the CWD which collects the overissuance.

.8 Submission of Payments

- .81 The CWD shall retain the value of funds collected for inadvertent household error, intentional Program violation, or administrative error claims. This amount includes the total value of allotment reductions to collect claims, but does not include the value of benefits not issued as a result of a household member being disqualified. The CWD's advance will be adjusted on a

quarterly basis (calendar quarter) in an amount equal to the state and federal share of the quarterly intentional Program violation, inadvertent household error, and administrative error claim collections together with any adjustments for prior quarters.

- .82 Each CWD shall submit, for each calendar quarter, a completed Form DFA-209, Status of Claims Against Households.
- .821 A completed DFA-209 is due no later than 30 days after the end of each calendar year quarter and shall be submitted to SDSS even if the CWD has not collected any payments. Failure to submit the DFA-209 to SDSS in a timely manner or in a fully completed format may result in a temporary suspension of a portion of the CWD's advance.
- .822 In addition to reporting the amount of funds recovered from inadvertent household error, intentional Program violation, and administrative error claims each quarter on DFA-209, the CWD shall also report these amounts on other documents as required by SDSS regulations.
- .823 In accounting for inadvertent household error and intentional Program violation claims collections, the CWD shall include cash or coupon repayments and the value of allotments recovered or offset by the restoration of lost benefits. The value of benefits not issued as a result of a household member being disqualified, shall not be considered recovered allotments and shall not be used to offset an intentional Program violation claim.
- .83 Collections from inadvertent household error claims prior to the determination of intentional Program violation shall be handled as follows:
- .831 Once a determination of intentional Program violation is made, the CWD may retain any amounts recovered on a claim, while such claim was handled as an inadvertent household error claim, pending a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that an intentional Program violation was committed, at the incentive rate applicable for intentional Program violation claims.

.84 If a household has overpaid a claim, the CWD shall pay the household any amounts overpaid as soon as administratively possible but not later than 10 days after the overpayment becomes known. The household shall be paid in cash for overpayments. Overpaid amounts of a claim which have previously been reported as collections on a prior DFA-209 and which have been repaid to the household shall be reported in the appropriate column on the DFA-209 for the quarter in which the repayment occurred. The amount of the repayment shall be subtracted from the total amount collected.

.85 Returned Coupons

The CWD shall destroy any coupons or coupon books collected from households as payment for claims in accordance with the procedures outlined in this section.

.851 The CWD shall require the collection points to complete a FNS-135, Affidavit of Return of Food Coupons, as verification for receipt of coupons returned as payment of a claim. The original copy shall accompany the voided coupons to the destruction point, a copy shall be placed in the client's casefile, and a copy shall be submitted to the CWD claim accounting office where the DFA-209 is completed.

.852 The CWD shall require the collection points to void, immediately upon receipt, all coupons collected as payment and either send the coupons to a coupon destruction point or hold the subject coupons in secure storage pending examination and destruction by the CWD at the claims collection point.

.853 After verification of the FNS-135 reports from the claims collection point, the CWD shall destroy the coupons or coupon books received from the claims collection points if the value of the coupons does not exceed \$500 per claims collection point for any month. If the value of the coupons to be destroyed exceeds \$500 per claims collection point per month, the CWD shall request FNS approval prior to any destruction of the coupons at that collection point.

.854 The CWD shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so that they are not negotiable. Two CWD officials shall witness and certify the destruction and forward the Form FNS-471, Coupon Account and Destruction Report, with the

DFA-209 to SDSS. The amount of coupons destroyed each month in repayment of claims shall equal the amount reported on the DFA-209 as repayment in coupons. Coupons destroyed for reasons other than in repayment of claims must be reported on a separate FNS-471 which is attached to the FNS-250 report.

- 86 In cases where FNS has billed the State for a CWD negligence, any amounts collected from households which were caused by the CWD's negligence will be credited by FNS.

#### •9 Accounting Procedures

Each CWD shall maintain an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

- 91 Identify claims by categories of inadvertent household error, administrative error, and intentional Program violations.
- 92 Provide data necessary to accurately complete the Status of Claims Against Households Report DFA-209.
- 93 Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.
- 94 Identify those situations in which an amount not yet restored to a household as a restoration of lost benefits can be used to offset a claim owed by the household.
- 95 Identify those households that have failed to make installment payments on their claims.
- 96 Document how much money was collected in payment of a claim and how much was submitted to SDSS through an adjustment of the CWD's advance. See Section 63-702 on CWD liability for claim collection losses.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR Sections 272.1(g)(ii), 273.11, and 273.18.

Repeal Sections 63-805.1, .2 , and .3.

63-805 FRAUD DISQUALIFICATION

63-805

•1 Fraud disqualification penalties.

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Fraud is defined in Section 63-801.41. Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the Program for three months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than six months and not more than 24 months as determined by the court. If the court fails to specify or address a disqualification period for fraud, the county shall impose a six-month disqualification period, unless contrary to the court order. If the individual does not agree to make restitution, the period of disqualification shall be continued until the individual agrees to make restitution. Individuals or the remaining household members shall be permitted to make restitution during the period of disqualification in accordance with Section 63-801.6 "Methods of Collecting Fraud Payments". The CWD shall disqualify only the individual and not the entire household.

•2 Notification to applicant households.

The CWD shall inform the household in writing of the disqualification penalties for committing fraud each time it applies for program benefits. The penalties shall be written in clear, prominent, and bold face lettering on the application form.

•3 Administrative disqualification.

•31 A request for an administrative fraud hearing shall be submitted to the Office of the Chief Referee, SDSS by the CWD whenever the CWD has documented evidence to substantiate that a household member has committed one or more acts of fraud as defined in this section and the CWD believes the household member should be disqualified. Such cases may include those in which the CWD believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system. Other cases may be those previously referred for prosecution, but for which prosecution was declined by the appropriate legal authority. Administrative fraud hearings shall be conducted by the DSS in accordance with the provisions of Division 22. Fraud hearings shall not

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be conducted if the amount the county suspects has been fraudulently obtained is less than \$35 or if the value of the ineligible items that have been purchased with food stamps is under \$35. The burden of proving fraud is on the CWD. The administrative fraud hearing may still be conducted regardless of whether other legal action is planned against the household member.

- 32 Also, the CWD may initiate an administrative fraud hearing regardless of the current eligibility of the individual. However, the disqualification period for nonparticipants at the time of the final hearing decision shall be deferred until the individual applies for and is determined eligible for program benefits.
- 33 Disqualification relating to the transfer of resources shall be handled in accordance with Section 63-501.6, unless fraud can be established as defined in Section 63-801.411 and .412.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18904; and 7 CFR Section 273.16(a).

Amend Section 63-805 Title, and adopt new Section 63-805.1 to read:

63-805 FRAUD INTENTIONAL PROGRAM VIOLATION  
DISQUALIFICATION

63-805

.1 Disqualification Penalties for Intentional Program Violation

- .11 Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the Food Stamp Program as follows:
  - .111 Six months for the first violation.
  - .112 Twelve months for the second violation.
  - .113 Permanently for the third violation.
- .12 Provisions governing administrative and court-ordered disqualifications, CWD administrative responsibilities and reporting requirements, and other related provisions are covered in SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR Section 273.16(a).

Amend and renumber Section 63-805.4 to read:

63-805 INTENTIONAL PROGRAM VIOLATION  
DISQUALIFICATION (Continued)

63-805

\*4.2 Participation while awaiting a Hearing

A pending ~~fraud~~ disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the Food Stamp Program. Since the CWD cannot disqualify a household member for ~~fraud~~ intentional Program violation until the hearing official finds that the individual has committed ~~fraud~~ an intentional Program violation, the CWD shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. However, the household's benefits shall be terminated if the certification period has expired and the household, after receiving its Notice of Expiration fails to reapply. The CWD shall also reduce or terminate the household's benefits if it has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of ~~fraud~~ intentional Program violation and the resulting ~~fraud~~ disqualification hearing) and the household fails to request a state hearing and continuation of benefits pending the hearing.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR 273.16(a).

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Repeal Sections 63-805.5 and .6 through .64.

63-805 INTENTIONAL PROGRAM VIOLATION  
DISQUALIFICATION (Continued)

63-805

.5 Notification of disqualification action.

If the administrative fraud hearing finds that the household member committed fraud, the CWD shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for decision. The notice shall also advise the remaining household members of the allotment that they will receive during the disqualification period, or that they may reapply after the disqualification period ends. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until the individual applies and is determined eligible for benefits. A written agreement letter for restitution explaining repayment requirements shall also be sent. This letter shall inform the individual of the amount owed, reason for the claim, the period the claim covers, any offsetting done to reduce the claim, the types and terms of each restitution schedule which is offered, the date restitution must commence in order to avoid continuing the period of disqualification, and the household member's right to a state hearing if the individual disagrees with the amount of the claim. The household shall also be informed of its right to request renegotiation of any agreed to schedule should the household's economic circumstances change. The written agreement letter shall contain spaces for the individual to complete indicating the method of repayment and a signature block.

.6 Court imposed disqualifications.

- .61 A court of appropriate jurisdiction, with either the state, county, or the United States as prosecutor or plaintiff, may order an individual disqualified from participation in the program for not less than six months and not more than 24 months if the court finds that individual guilty of civil or criminal fraud. Court-ordered disqualifications may be imposed separate and apart from any action taken by the CWD to disqualify the individual through an administrative fraud hearing.
- .62 CWDs are encouraged to refer for prosecution under state or local fraud statutes those individuals suspected of

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committing fraud, particularly if large amounts of food stamps are suspected of being fraudulently obtained or the individual is suspected of committing more than one fraudulent act. The CWD shall confer with its legal representative.

- 63 CWDs shall disqualify an individual found guilty of fraud by the courts only if the court orders disqualification and only for the length of time specified by the court. If disqualification is ordered but a date for initiating the disqualification period is not specified, the CWD shall initiate the disqualification period for currently eligible individuals. A court-ordered disqualification shall run concurrently with the three-month period of disqualification imposed as a result of an administrative fraud hearing. The court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal fraud. If the individual is not currently eligible at the time the disqualification period is to begin, the period shall be postponed until the individual applies and is determined eligible. The CWD shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order. If the court fails to address or specify a disqualification period, the CWD shall impose a six-month disqualification period unless contrary to the court order.
- 64 If the court finds that the household member committed fraud, the CWD shall mail a written notice, designed or approved by FNS, to the household member. The notice shall be sent prior to disqualification whenever possible. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The notice shall also inform the household member of the date disqualification will take effect and of the fraud claim repayment requirements. In addition, the CWD shall include the written agreement letter for restitution.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR 273.16(a).

Amend and renumber Section 63-805.7 to read:

63-805 INTENTIONAL PROGRAM VIOLATION  
DISQUALIFICATION (Continued)

63-805

~~#7.3 Reversed fraud administrative disqualifications.~~

In cases where the determination of fraud intentional Program violation is reversed by a court of appropriate jurisdiction, the CWD shall reinstate the individual in the Food Stamp Program if the household is eligible. The CWD shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified in Section 63-802.6.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR 273.16(a).

Adopt new Chapter 20-300 to read:

20-300 INTENTIONAL PROGRAM VIOLATIONS IN THE  
FOOD STAMP PROGRAM

20-300

.1 Definition: Intentional Program Violation

For the purpose of this section, an intentional Program violation applies to the Food Stamp Program and is defined as having intentionally:

- .11 Made a false or misleading statement, or misrepresented, concealed, or withheld facts, or
- .12 Committed any act which constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or ATPs.

.2 County Responsibilities

.21 Investigation and Referral

The CWD's Special Investigations Unit (SIU) shall be responsible for investigating any case of alleged intentional Program violation. The SIU shall, in those cases in which it appears that clear and convincing evidence exists to substantiate the allegation of intentional Program violation, file a request for complaint with the prosecuting authority as provided in Section 20-007.3.

.22 Administrative Disqualification Hearing

Those cases in which the prosecuting authority has determined (a) that facts do not warrant prosecution, or (b) those cases previously referred for prosecution and declined, shall be returned to the CWD and the CWD shall initiate referral action for an administrative disqualification hearing through the SDSS in accordance with SDSS' Manual of Policies and Procedures, Division 22.

- .23 The CWD shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused

individual by the prosecutor or court of the appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

.24 Notification of Disqualification Action

If the administrative disqualification hearing or the court finds that the household member committed intentional Program violation, the CWD shall mail an administrative disqualification notice, DFA 377.7A to the household member. Following an administrative hearing, the notice shall be sent prior to the disqualification action. The notice shall inform the household member of the decision, the reason for the decision, and the date the disqualification will take effect. The notice shall also advise the remaining household members of the allotment that they will receive during the disqualification period, or that they may reapply after the disqualification period ends. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until the individual applies and is determined eligible for benefits. In addition, the CWD shall send the household a Repayment Notice (DFA 377.7B) and a Repayment Agreement (DFA 377.7C) for restitution as specified in SDSS' Manual of Policies and Procedures, Division 63, Section 63-801.43. The procedures for handling the income and resources of the disqualified member shall be in accordance with regulations in SDSS' Manual of Policies and Procedures, Division 63, Section 63-503.54.

.3 Disqualification Penalties

.31 Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the Food Stamp Program as follows:

- a. Six months for the first violation.
- b. Twelve months for the second violation.
- c. Permanently for the third violation.

.32 The disqualification penalties shall apply only to individuals disqualified for acts of intentional Program violation which occurred during a certification period after the household has been notified by the CWD of the

new disqualification penalties. If the act of intentional Program violation which led to the disqualification occurred prior to the household's notification of the disqualification penalty the individual, shall be disqualified in accordance with the Food Stamp Program's disqualification penalty regulations in effect at the time of the individual's offense.

- .33 One or more intentional Program violations which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining the penalty to impose.
  - .34 The CWD shall disqualify only the individual found to have committed the intentional Program violation and not the entire household.
  - .35 Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household.
  - .36 If the individual is not eligible for the Food Stamp Program at the time the disqualification period is to begin, the period shall be postponed until the person applies for and is determined eligible for benefits.
  - .37 The disqualification of an individual for intentional Program violation in one political jurisdiction shall be valid in another.
  - .38 The same act of intentional Program violation repeated over a period of time shall not be separated so that separate penalties can be imposed.
  - .39 If the accused household member is found guilty of an intentional Program violation by the court, and the court fails to impose a disqualification penalty, the county shall impose a disqualification period in accordance with the penalties specified in this section, unless contrary to the court order.
- .4 Time Frames for Imposition of Disqualification Penalties
- .41 By Administrative Disqualification Hearing

If the hearing authority rules that the household member has committed an intentional Program violation, the CWD shall disqualify the household member beginning with the

first month following the date the household member receives the DFA 377.7A.

.411 Five days from the date the notice is mailed shall be considered sufficient time for the written notice to have been received by the household, provided it has not been returned as undeliverable by the post office.

.42 By Court Order

If disqualification is ordered by a court of appropriate jurisdiction, but the date for initiating the disqualification period is not specified, the CWD shall initiate the disqualification within 45 days of the date the disqualification was ordered.

.5 Reporting Requirements

.51 The CWD shall report to FNS information concerning individuals disqualified for intentional Program violation, within 30 days of the date the disqualification took effect, or would have taken effect for a currently ineligible individual whose disqualification is pending future eligibility. This information shall be reported on the Disqualified Recipient Report (FNS 524).

.52 The CWD shall establish and maintain a food stamp disqualification file containing all information received from SDSS concerning individuals who have been disqualified in that county or in another political jurisdiction. Such information shall be made immediately available to food stamp eligibility staff for the following purposes:

.521 To determine eligibility of individual Food Stamp Program applicants prior to food stamp certification in cases where a welfare agency has reason to believe a household member is subject to disqualification in another jurisdiction.

.522 To ascertain the appropriate penalty to impose based on past disqualification in a case under consideration.

.53 CWDs shall submit revisions to original disqualification reports in the following situations:

a. On those cases where the disqualification was pending future eligibility, and the individual once again

becomes eligible and the disqualification penalty is imposed.

- b. In cases where the disqualification is reversed by a court of appropriate jurisdiction.

**Authority:** Welfare and Institutions Code Sections 10553 and 18904.

**Reference:** Welfare and Institutions Code Section 18901, 7 CFR Section 273.16(a), (b), (c), (e), and (i), and 7 CFR Section 272.1(g).

Amend Section 22-001 to read:

22-001 DEFINITIONS (Continued)

22-001

- 4 Authorized Representative – An individual or organization that has been authorized by the claimant pursuant to Sections 22-010 and 22-101 to act for and represent the claimant in any and all aspects of the state hearing or administrative disqualification hearings. If the claimant has designated an authorized representative, any references to claimant shall also apply also to the authorized representative unless otherwise stated. {The claimant need not designate an authorized representative, and may represent him/herself at all stages of the hearing process.} (Also see Sections 22-010 and 22-101.)
- 5 Chief Referee – The person designated and employed by the Director of the Department of Social Services and charged with the administration of state hearings and administrative disqualification hearings.

22-001 DEFINITIONS (Continued)

22-001

- 7 County or CWD – For purposes of this division, "county" or "CWD" generally refers to the county welfare department. Any references to "county" or "CWD" however, may also refer to any agency or contractor whose actions may be subject to a state hearing.
- 8 County or CWD Representative – An employee who is assigned the major responsibility for preparing and/or presenting a state hearing case on behalf of the county welfare department CWD. (See Section 22-023.12.)

22-001 DEFINITIONS (Continued)

22-001

- 13 Hearing Officer – A person designated by the Director and thereafter assigned by the Chief Referee to conduct state hearings and administrative disqualification hearings and propose decisions.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR Sections 273.16(a) and (e).

Amend Section 22-003.11 to read:

22-003 RIGHT TO STATE HEARING

22-003

.1 (Continued)

- .11 There is no right to a state hearing regarding a food stamp administrative disqualification, unless the issue is the county CWD's method of implementing a food stamp administrative disqualification hearing decision {See Division 22, Chapter 22-200, Division 20, Chapter 20-300, and Division 63, and Section Chapter 63-805}.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, 7 CFR 273.16(a), and (e).

Amend Chapter 22-200 to read:

22-200 ADMINISTRATIVE ~~FRAUD~~ DISQUALIFICATION  
HEARINGS - GENERAL

22-200

- .1 The regulations in this chapter sets forth regulations pertaining shall apply to hearings resulting from a county's CWD's belief determination, supported by documentation, that a Food stamp fraud administrative disqualification for an intentional Program violation is appropriate (see Section 63-805.4)\* and in accordance with SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.
- .2 Administrative fraud disqualification hearings are distinct from state hearings discussed in Chapter 22-000.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.16(e).

Amend Section 22-201 to read:

22-201 GENERAL PROVISIONS

22-201

- 1 An administrative fraud disqualification hearing ~~is shall be~~ initiated when a county CWD informs the Office of the Chief Referee that clear and convincing documented evidence in the county's CWD's possession indicates that an fraud administrative disqualification is appropriate.
- 11 The Department shall then assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing.
- 12 The county CWD ~~will shall~~ remain responsible for:
  - 121 Investigating the case and assisting the respondent prior to the hearing;
  - 122 Presenting the county's CWD's position during the hearing; and
  - 123 Complying with the hearing decision.
- 2 Definitions
  - (a) The definitions in Section 22-001 shall apply to this chapter. The following additional definitions, in alphabetical order, define shall apply wherever the terms as are used in these regulations this chapter:

Authorized Representative - An individual or organization that has been authorized by the respondent pursuant to Section 22-101 to act for and represent respondent in any and all aspects of the administrative fraud hearing. If the respondent has designated an authorized representative any references to respondent shall also apply to the authorized representative unless otherwise stated. The respondent need not designate an authorized representative and may represent him/herself at all stages of the hearing process.

Chief Referee - The person designated and employed by the Director of the Department of Social Services and charged with administration of administrative fraud hearings.

County - Refers to the county welfare department.

County Representative - An employee who is assigned the major responsibility for preparing and/or presenting a hearing case on behalf of the county welfare department (see Section 22-023-127).

Department - Refers to the Department of Social Services.

Director - Refers to the Director of the Department of Social Services.

(1) Administrative Disqualification Fraud Decision - The means the written decision issued by the Hearing Officer after an administrative fraud disqualification hearing.

Hearing Officer - A person designated by the Director and thereafter assigned by the Chief Referee to conduct administrative fraud hearings and to issue fraud decisions.

(2) Notice of Hearing - The means the notification sent to the respondent and the county CWD by the Department which initiates an administrative fraud disqualification hearing (see Section 22-202.3).

(3) Respondent - Refers to means the household member(s) or members whom the county CWD has determined may be subject to administrative fraud disqualification. (To the extent the provisions of Chapter 22-000 relating to state hearings apply to administrative fraud disqualification hearings, all references to "claimant" in such regulations shall be deemed to refer to "respondent" for purposes of the administrative fraud disqualification hearing.)

.3 Procedures Governing State Hearings Also Applicable to Administrative Fraud Disqualification Hearings

(a) The following provisions of Chapter 22-000 are shall be applicable to administrative fraud disqualification hearings:

a-(1) Section 22-002 (relating to determination of time limit);

b-(2) Section 22-010 (relating to authorized representatives);

- e\*(3) Section 22-023.12 (relating to assignment of county representatives);
- e\*(4) Section 22-023.2 (relating to duties of county representatives prior to and at the hearing);
- e\*(5) Section 22-025 (relating to situations where the hearing is held in a county other than the responsible county);
- f\*(6) Section 22-045.1 and .2 (relating to the time and place of the hearing);
- g\*(7) Section 22-049 (relating to general rules and procedures at the hearing);
- h\*(8) Section 22-050 (relating to evidence);
- i\*(9) Section 22-051 (relating to the examination of records and issuance of subpoenas);
- j\*(10) Section 22-052 (relating to witness fees and mileage);
- k\*(11) Section 22-053.2 (relating to continuances for additional evidence);
- t\*(12) Section 22-055 (relating to disqualification of hearing officers);
- m\*(13) Section 22-059 (relating to communications after the hearing).

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10950 and 18904, and 7 CFR 273.16(c) and (e).

Amend Section 22-202.1, .2, .3, and .4 as shown:

22-202 NOTICE OF ADMINISTRATIVE FRAUD DISQUALIFICATION  
HEARING

22-202

- 1 When the county CWD determines, based on clear and convincing evidence, that a household member(s) is subject to disqualification from the Food Stamp Program because of a suspected fraud intentional Program violation and believes the household member(s) should be disqualified (see Section 63-805\*4), in accordance with Division 20, Chapter 20-300 the county CWD shall:
  - 11 Notify the Chief Referee in writing and,
  - 12 shall request that an administrative fraud disqualification hearing be scheduled.
    - 121 The notification shall set forth the charges against the respondent and contain a summary of the evidence.
- 2 Upon receipt of the notification described in Section 22-202.1, the Chief Referee shall either:
  - 21 Schedule an administrative fraud disqualification hearing, or,
  - 22 Refer the notification to the Department for review.
    - 221 If the Department determines that there is insufficient evidence described to support the charges, the county CWD shall be so notified.
    - 222 If the Department determines that there is sufficient evidence, it shall return the notification to the Chief Referee and the Chief Referee shall schedule an administrative fraud disqualification hearing.
- 3 Notice of Hearing
  - 31 The Chief Referee shall provide written notice to the respondent, with a copy to the CWD at least 30 days in advance of the date of the hearing or of a consolidated hearing. A copy of the notice shall also be mailed to the county.
    - 311 The notice shall be mailed "Certified Mail - Return Receipt Requested" and shall contain, at a minimum:

- \*31(a) The date, time, and place of the hearing; and a notice that the respondent is entitled to a postponement of the scheduled hearing for up to 30 days provided that the request for postponement is made at least 10 days in advance of the date of the scheduled hearing.
- \*32(b) The charges against the respondent.
- \*33(c) A summary of the evidence, and how and where the evidence can be examined.
- \*34(d) A warning that the decision will be based solely on information provided by the county CWD if the respondent fails to appear at the hearing.
- \*35(e) A warning that a determination of fraud will result in a 3-month disqualification; an individual found to have committed an intentional Program violation shall be ineligible to participate in the Food Stamp Program for six months for the first violation, 12 months for the second violation, and permanently for the third violation and a statement of which penalty the CWD believes is applicable to the respondent's case.
- \*36(f) A listing of the respondent's rights as contained in Section 22-049.7.
- \*37(g) A statement that the hearing does not preclude the County, State or Federal government from prosecuting the respondent for the fraud intentional Program violation in a civil or criminal court action, or from collecting an overissuance related to the alleged fraud intentional Program violation.
- \*38(h) A statement that the respondent can call the county CWD to get the name and phone number (if available) of someone who can give free legal advice. If free legal advice is not available, the county CWD shall provide when called, the phone number of a lawyer referral service or of the local bar association.
- \*39(i) A copy of this chapter and the applicable provisions of Chapter 22-000 shall be attached to the Notice of Hearing.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.16(e).

Amend Sections 22-210.1, .2, .3, and .4 as shown:

22-210 HEARING PROCEDURE

22-210

- 1 The hearing shall be conducted pursuant to the applicable provisions of Chapter 22-000.

•11 In addition, the The hearing officer shall advise the respondent that he/she may refuse to answer questions during the hearing.

- 2 Postponements

At the request of the respondent, the hearing may be postponed for a total period of up to 30 days provided that the request for postponement is made at least 10 days in advance of the date of the scheduled hearing.

•21 The time limit for rendering a decision on the hearing may be extended for the length of time the hearing is postponed.

- 3 Cancellation of Hearing

If after a hearing has been scheduled, the county CWD finds that further evidence indicates that an fraud administrative disqualification is no longer appropriate, it shall notify the Chief Referee.

•31 The Chief Referee shall then notify the respondent and the county CWD that the administrative fraud disqualification hearing is cancelled.

- 4 Respondent Fails to Attend Hearing

•41 If the respondent cannot be located or fails to appear at a hearing, the hearing witt nonetheless shall be conducted in the absence of the respondent.

•411 In such cases tThe hearing officer witt shall review the evidence presented by the county and prepare a decision based upon that evidence.

•42 If the respondent establishes good cause for failure to attend the hearing, a new hearing witt shall be scheduled.

•421 The criteria for good cause shall be the criteria set forth in Section 22-053.14.

- 422 The respondent may shall establish good cause for failure to attend the hearing no later than 10 days after receiving the fraud hearing decision. If good cause is established the fraud decision shall have no effect.
- 423 The respondent may shall establish good cause by contacting the Chief Referee by letter or by telephone.
  - (a) The Chief Referee may shall have authority to require that the respondent submit verification of good cause.
- 424 The respondent and the county CWD shall be notified in writing of the good cause determination and the determination shall be placed into the hearing record.
- 425 If good cause is established, the hearing decision shall have no affect on the respondent's status. Nor shall it affect the household's continuing benefit, except as provided in Section 63-805.2.
  - (a) Pending the rehearing decision, any benefits lost to the household as a result of the rescinded decision shall be restored in accordance with Section 63-802.1.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902, and 7 CFR 273.16(e).

Amend Sections 22-220.2, .3, .4, and .5 as shown:

22-220 HEARING DECISION

22-220

- .1 After the hearing has been closed, the hearing officer shall prepare a written decision.
- .2 The decision shall include:
  - .21 A statement of facts.
  - .22 The statutes and regulations involved and .
  - .23 The reasoning which supports the decision. The decision shall respond
  - .24 Responses to arguments raised by the respondent.
- .3 Any determination of fraud or an intentional Program violation which is made in such a decision must shall be based upon clear and convincing evidence.
- .3.4 The hearing officer's proposed decision shall be subject to the review of the Chief Referee and the Director.
  - .41 The Chief Referee or Director shall have the authority to reject the proposed decision of the hearing officer and prepare a separate decision based upon the record in the case or to order an additional hearing.
  - .42 Any such decision shall be subject to the provisions of Section 22-220.2.
  - .4.5 A copy of the hearing decision shall be mailed to the respondent and to the county CWD.
  - .51 If the decision is adverse to the respondent, the decision shall notify the respondent of the right to judicial review, and shall advise the respondent that, if the court decides the case in his/her favor, he/she shall be entitled to reasonable attorney's fees and the cost of suit.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10958 and 18904, and 7 CFR 273.16(e).

Amend Section 22-230.1 as shown:

22-230 DISPOSITION OF ADMINISTRATIVE FRAUD  
DISQUALIFICATION HEARINGS

22-230

- 1 All administrative fraud disqualification hearings decisions shall be resolved mailed within 90 days of the date of the notice of hearing described in Section 22-202.3.
- 11 If the decision results in upholding the disqualification of the respondent, the county CWD shall be given an opportunity to initiate the administrative action described in Section 63-805-67 accordance with SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300 within the 90-day period.
- \*•12 If the hearing is postponed (see Section 22-210.2), the 90-day period shall be extended by the period of time that the case is postponed.
- \*•13 If a new hearing is scheduled pursuant to Section 22-210.42, a new 90-day period ~~will~~ shall commence from the date the respondent and county CWD are notified of the new hearing.
- \*•14 If a hearing is continued or postponed, (see Section 22-053) the respondent ~~must~~ shall be given a written notice that explains that the time limit for rendering a decision will be extended by the same number of days as the hearing is postponed or continued.
- \*•15 An administrative fraud disqualification decision is not subject to the provisions of Section 22-065.
- 151 There is no right to a rehearing regarding a finding of administrative fraud intentional Program violation.
- 152 However ~~a~~A decision finding intentional Program violation administrative fraud shall inform the respondent concerning the right to judicial review.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18904, and 7 CFR 273.16(e).

Amend Sections 22-240.1, .2, .3, and .4 as shown:

22-240 CONSOLIDATION OF ADMINISTRATIVE FRAUD  
DISQUALIFICATION HEARING WITH A STATE HEARING

22-240

- .1 The Chief Referee may, at At his/her discretion or upon the request of the respondent or the county CWD, the Chief Referee shall have the authority to consolidate requests for a state hearing with an administrative fraud disqualification hearing.
- .11 If the factual issues arise out of the same, or related circumstances and the household receives prior notice (as required in Section 22-202.3) then the hearings will be combined. However, the respondent, upon request, shall be allowed to waive the 30-day advance notice when the hearing requests are consolidated.
- .12 In such cases, although only one actual hearing may be held, the procedures governing the administrative fraud disqualification hearing aspect of the case and the state hearing aspect will shall be separately identified and followed.
- .13 The hearing officer shall have the authority to:
  - .131 sever the proceedings and hold each hearing separately.
  - .132 He/she also may elect to p Postpone or continue the state hearing and not postpone or continue the administrative fraud disqualification hearing or vice versa.
- .14 If a state hearing case is consolidated under this section, the time limits for its disposition, shall be the same as for the administrative fraud disqualification hearing, (see Section 22-230).
- .15 If a state hearing case is consolidated under this section, for the purpose of settling the amount of the claim at the same time as determining whether or not an intentional Program violation has occurred, the respondent shall lose the right to a subsequent state hearing on the amount of the claim.
- .2 A pending administrative fraud disqualification hearing shall not affect the individual's or household's right to be

certified or to participate in the Food Stamp Program (see Section 63-805.5).

- \*3 Court-ordered disqualifications may be imposed separate and apart from any action taken by the county to disqualify the individual through an administrative fraud disqualification hearing in the Food Stamp Program (see Section 63-805.7).
- \*4.3 In the Food Stamp Program, (see Section 63-805.8) when the determination of fraud intentional Program violation is reversed by the court, the county CWD shall reinstate the individual if the household is eligible\* in accordance with procedures in SDSS' Manual of Policies and Procedures, Division 63, Section 63-805.2.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18902, and 18904, and 7 CFR Section 273.16(e).

FACE SHEET  
(OAL-4)

(See Instructions on Reverse)

84-0322-4

Resubmission  
ORD #883-55

RECEIVED BY FILING

MAR 22 2 25 PM '84

ADMINISTRATIVE LAW

ENDORSED

APPROVED FOR SUBMISSION

MAR 22 1984

Office of Administrative Law

LEAVE BLANK

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

1. ATTACHED ARE REGULATIONS ADOPTED,  
AMENDED OR REPEALED BY:

Department of Social Services

< (AGENCY)

BY:

*Tonda S. McPherson*

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State  
of the State of California

MAR 22 1984

At 4:50 o'clock M.

MARCH FONG EU, Secretary of State

By *Cathleen Patrick*

Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Jerry Demorest, Regulations Analyst

TELEPHONE

323-0881

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: \_\_\_\_\_ MPP 40-129 and 44-317

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational  
Change

Editorial Correction

Authority and Reference  
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing \_\_\_\_\_

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal  
(Attach Approval)

Building Standards Comm.  
(Attach Approval)

Fair Political Practices Comm.  
(Include FPPC Approval Stamp)

Department of Finance  
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

September 30, 1983

b. DATE OF ADOPTION OF REGULATION(S)

March 22, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

February 3, 1984-February 17, 1984

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_

c.  Effective on April 1, 1984 (Designate effective date **earlier than** 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on \_\_\_\_\_ (Designate effective date **later than** 30 days after filing with the Secretary of  
State.)

## INSTRUCTIONS FOR STD 400 (OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

- b. Provide the date on which the regulatory agency adopted the regulation(s).
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

### Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Amend MPP Section 40-129.432 to read:

40-129 IMMEDIATE NEED (Continued)

40-129

.4 The county shall review the Form CA 2: (Continued)

.43 If the county cannot verify eligibility for AFDC the county shall determine if the applicant is eligible for an immediate need payment. (Continued)

.432 The amount of the payment shall be the prorata grant for the month computed from the date of the immediate need request payment is authorized, but not more than \$100.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11056, 11266; and 45 CFR 206.10(a)(6).

(2FM) Amend MPP Sections 44-317.1 and .2 to read:

44-317 BEGINNING DATE OF AID (Continued)

44-317

When the applicant is found eligible, the following are beginning dates of aid:

.1 Basic Date of Aid Determination

- 121 The beginning date of aid shall not precede is the date of application if authorizing action is taken in that month; or the beginning date of aid is the first of the month following the date of application if the authorizing action is taken at a later date. Aid shall begin on:
- 111 The date of authorization of payment when authorization occurs during the month in which the applicant meets all eligibility conditions; or
- 112 The first of the month following the date on which the applicant met all eligibility conditions when authorization of payment occurs after the month in which the applicant met all eligibility conditions.

[Adopt MPP Handbook Sections 44-317.112(a) and (b) to read:]

- (a) Example: Following an application for aid, an applicant met all eligibility conditions on the 15th, verifying documents were received by the county on the 18th and authorizing action was taken on the 20th, all in the same month. The beginning date of aid is the 20th.
- (b) Example: Following an application for aid, an applicant met all eligibility conditions on the 20th, verifying documents were received by the county on the 28th and authorizing action was taken on the 2nd of the following month. The beginning date of aid is the 1st of the 2nd month.

.12 For purposes of .11 above:

- .121 "The date of authorization of payment" means the date the Director of the CWD or his/her designee (e.g., the EW supervisor) certifies the determination of eligibility of the applicant (see Section 25-300).
- .122 "The date the applicant met all eligibility conditions" means the date that the following conditions exist, even though verification or documentation of the condition is received at a later date:
- (a) All linking and nonlinking factors of eligibility are met (see Section 40-107.3) including deprivation of parental support or care, age, citizenship or alienage status, residence, property and income eligibility; and
- (b) All other specified conditions of eligibility are met, including WIN/ES registration and cooperation, assignment of support, and social security number enumeration requirements.

[Adopt MPP Handbook Section 44-317.122(c) to read:]

- (c) Example: On the 5th, an applicant supplies to the county all the documents necessary to determine eligibility except a social security number and the EDD registration. On the 6th, the applicant applies for a social security number and registers with EDD. The county receives the verifying documents on the 8th. The EW determines eligibility on the 8th and the EW supervisor authorizes on the 9th, all in the same month. The date eligibility conditions are met is the 6th, the date of authorizing action is the 9th, and the beginning date of aid is the 9th.

.13 Aid Granted on Basis of Immediate Need

When immediate need has been granted under Section 40-129, the beginning date of aid is the earlier of either the date of the immediate need request payment is authorized

or the date determined by the beginning date of aid rule under .121 above.

\*213.14 For AFDC-FC, the beginning date of aid for an otherwise eligible child shall be determined as in .11 and shall not precede the date on which the authority for placement requirement in Sections 45-202.4 or 45-203.3 is met.

.2 Eligibility Does Not Aid Begins Until After on a Specified Date of Application

\*21 Aid is paid effective the date of eligibility.

.21 For a pregnant woman who meets the conditions of Section 44-205.26, the beginning date of aid shall be the date of medical verification of pregnancy or the date of application, whichever is later.

.22 When the mother of a newborn is being aided as a pregnant woman under Section 44-205.26 or is receiving a pregnancy special need payment under Section 44-211.4 in the month of birth;

fat.221 aid for the otherwise eligible newborn begins on the date of birth, and

fbt.222 aid for the otherwise eligible unaided father begins on date of birth of the newborn when:

ftt(a) the father was living in the home at the time of application for aid and/or the pregnancy special need, and

ftt(b) the father was living in the home up to and including the month of birth.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11056; 45 CFR 206.10(a)(6).

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD # 982-53

84-0227-1

RECEIVED FOR FILING

FEB 27 10 00 AM '84

ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING

MAR 20 1984

Office of Administrative Law

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AGENCY CONTACT PERSON AND POSITION

Diane Moritz Glazer

TELEPHONE 323-0885

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: MPP 40-101.14; 41-440.43

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

Regular

Emergency  
(Attach Finding of Emergency)

Certificate of Compliance

Other Regulatory Actions:

Procedural and Organizational  
Change

Editorial Correction

Authority and Reference  
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

No

Yes, if yes give date of previous filing \_\_\_\_\_

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

No

Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,  
CHECK THE APPROPRIATE BOX OR BOXES.

State Fire Marshal     Building Standards Comm.     Fair Political Practices Comm.     Department of Finance  
(Attach Approval)     (Attach Approval)     (Include FPPC Approval Stamp)     (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

July 29, 1983

b. DATE OF ADOPTION OF REGULATION(S)

February 24, 1984

c. DATES OF AVAILABILITY OF MODIFIED  
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

February 3 through 17, 1984

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

No

Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS  
ON REVERSE)

a.  Effective 30th day after filing with the Secretary of State.

b.  Effective on \_\_\_\_\_ as required by statutes: (list) \_\_\_\_\_

c.  Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary  
of State pursuant to Government Code Section 11346.2(d).)

Request Attached

d.  Effective on May 1, 1984 (Designate effective date later than 30 days after filing with the Secretary of  
State.)

FILED  
In the office of the Secretary of State  
of the State of California

MAR 28 1984  
At 4:00 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Marjorie Hershberger  
Deputy Secretary of State

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Amend MPP Section 40-101.14 to read:

**40-101 GENERAL POLICIES AND PRINCIPLES (Continued)**

**40-101**

**.1 General Policies and Principles (Continued)**

**.14 The provisions of the law relating to public assistance  
are to be liberally fairly and equitably construed.**

**Authority:** Welfare and Institutions Code Sections 10553, 10554,  
and 10600

**Reference:** Welfare and Institutions Code Section 11000.

Amend MPP Section 41-440.43 to read:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued) 41-440

.4 Conditions to be Met for Federal Participation in Payments to AFDC-U Families (Continued)

.43 The AFDC-U parent principal earner, including those being considered for transfer from Refugee Cash Assistance or Entrant Cash Assistance to AFDC-U, shall have established a connection with the labor force:

.431 By meeting either of the following requirements of a., b., or c. below in six calendar quarters within any 13-calendar-quarter period ending which ends within one year before the date of application; for aid see 41-440.433 below:

- a. Earned a gross of at least \$50 during the quarter; or
- b. Participated for at least five days during the quarter in any activity administered under either or both of the following:
  - (1) The Work Incentive Program (WIN)
  - (2) The Community Work Experience Program (CWEP); or
- c. A combination of a. and b.

OR

.432 By receiving, or being eligible to receive, unemployment insurance benefits within one year before application. The words "being eligible to receive," as used in this section mean that:

- a. The parent would have been eligible to receive unemployment compensation upon filing application, or
- b. The parent performed work not covered by Unemployment Compensation Law and such work, if it had been covered, would (together with any covered work he/she performed) have made

him/her eligible to receive unemployment compensation upon filing application.

•433 The date of application for determining federal eligibility is either: the date of application for federal AFDC benefits on the basis of unemployment of the principal earner parent, or the date of a status change when a family's circumstances have changed in such a way (e.g., a parent returns to the home, a parent is no longer incapacitated, or the principal earner parent acquires sufficient quarters) as to meet the federal requirements for deprivation due to unemployment of the principal earner parent. The quarter in which application is made or status change occurs shall not be counted as one of 13 calendar quarters.

•4334 If an applicant cannot establish a connection with the labor force by receiving or being eligible to receive UIB (see Section 41-440.432), the applicant's sworn statement, signed under penalty of perjury, will be sufficient for earnings information or participation in training programs listed in Section 41-440.431, within one year previous to application.

•434 For the purpose of determining a connection with the labor force the date of application for Indochinese or Cuban refugee cases which are being considered for conversion to AFDC shall be one of the following:

- a\* the date of initial application for refugee assistance or
- b\* the date subsequent to the date of application when the family composition changed in such a way (e.g., parent returns to the home) as to meet the requirement for deprivation due to unemployment of the parent or
- c\* October 1, 1977.

Whichever of the above dates satisfies the requirement for a connection with the labor force is to be used.

**Authority:** Welfare and Institutions Code Sections 10553, 10554 and 10600.

**Reference:** 45 CFR 233.100(a); 45 CFR 206.10(d)(2), (3); 42 USC 607; Welfare and Institutions Code Section 11201; P.L. 94-23, May 23, 1975, 89 Stat. 87 22 USC 2601; P.L. 95-145, October 28, 1977, 91 Stat. 1224, 8 USC 1255; 8 USC 1522(a)(9); 45 CFR 400.62(b), (c), (d); 45 CFR 401.12.